

Exhibit 1

OFFICE OF THE UNITED STATES TRUSTEE
NORTHERN DISTRICT OF NEW YORK

IN RE: . Case No. 23-60263-6-PGR
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M. BURTON MARSHALL, . One Lincoln Center
110 W. Fayette Street, Suite 720
Syracuse, NY 13202
.
Debtor. . June 5, 2023
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TRANSCRIPT OF 341 MEETING OF CREDITORS
BEFORE ERIN CHAMPION, ESQ.
OFFICE OF THE UNITED STATES TRUSTEE

APPEARANCES:

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

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1 MS. CHAMPION: Thank you. Good morning, everyone.
2 Thank you for your patience this morning. My name is Erin
3 Champion. I'm going to be conducting the meeting this morning,
4 on behalf of the United States Trustee. I am the Assistant
5 United States Trustee for the Utica Office here in the Northern
6 District of New York where this bankruptcy case was filed.

7 This is the meeting of creditors, pursuant to Section
8 341 of the United States Bankruptcy Code in the Chapter 11 case
9 of M. Burton Marshall, Case Number 23-60263. Today is June 5,
10 2023. The time is approximately 10:00 a.m. This is the
11 adjourned date, actually, following the initially scheduled
12 meeting of May 22nd, which was adjourned to today's date due to
13 technical difficulties with the call last time. And, again, I
14 appreciate everyone's patience during that process. I know it
15 was tricky.

16 Anyway, before we begin with the meeting itself, I'm
17 just going to take a couple of minutes to explain how I'm going
18 to proceed this morning and how the meeting will go. And given
19 that the meeting is being held on the phone, pursuant to the
20 amended 341 notice, I just want to go over the procedure, so
21 that we can make sure the meeting is productive, and that
22 everyone has an opportunity to be heard, you know, whoever
23 wants to ask questions, so we'll go over that process.

24 So, I'm going to be the moderator speaker for the
25 day, and I'll be unmuted for the duration of the meeting,

1 obviously. And my role will be to ask the Debtor questions
2 regarding his financial affairs. Some of you have already
3 emailed me your name and your phone number to indicate that you
4 would like to ask Mr. Marshall questions. Some of the emails I
5 got, I did not have phone numbers for, and that's the way that
6 we're going to be identifying you.

7 But just to make sure that everybody who wants to ask
8 questions can ask questions, if I don't have the information,
9 you will have the option of hitting star-zero to speak with the
10 operator, and then she will be added -- she can add you into
11 the list of speakers. But it'll probably be a little while
12 before we get to that point in the meeting, because I will be
13 asking the questions first.

14 So, the order of the meeting is going to be, after I
15 take appearances from the attorneys, then I'm going to be
16 putting Mr. Marshall under oath. I will be asking Mr. Marshall
17 questions. I would just ask that you, please, listen carefully
18 to all of my questions, as it might answer some of the
19 questions that you have, as well. It would prolong the meeting
20 unnecessarily if we continue to ask the same questions
21 repeatedly, so I would just ask you to be mindful of that.

22 Then after I conclude my questioning, I will invite
23 counsel for the Creditors Committee to ask questions of Mr.
24 Marshall, and then any other attorneys that wish to appear and
25 ask questions, and then I will be turning it over to those

1 creditors that contacted me in advance to let me know that you
2 would be asking questions. And you're still welcome to do so.
3 You can still email me your name and your telephone number, the
4 line that you're calling from, and we can make sure you get
5 added to the list of speaking parties or, like I said, if you
6 don't have access to your email at the moment, you can just hit
7 star-zero and speak to the operator.

8 The other thing I want to just mention today is that,
9 it's possible that we might not get through everything that we
10 need to today and maybe not everybody's questions today. If
11 necessary, I can continue the meeting to another date. I would
12 just ask everybody to be very patient, because this is a case,
13 obviously, with many creditors, so we just have to make sure
14 that we can get through this process as expeditiously and
15 efficiently as possible.

16 So, another thing I will mention that since we are on
17 a call, I would ask that you please identify yourself before
18 speaking so we can have an accurate record. If the call is
19 transcribed, we know who is speaking and when.

20 So, the statutory purpose, so the purpose behind the
21 Bankruptcy Code statute for this meeting, it's to provide my
22 office, as well as creditors and other interested parties with
23 an opportunity to examine the Debtor under oath. If you don't
24 have any questions for Mr. Marshall, that's fine. It's not
25 required. You don't have to ask questions. You can leave the

1 meeting or drop off the call at any time. You're more than
2 welcome to just stay and listen.

3 So, I would also ask another thing, to keep in mind
4 that this is an opportunity for creditors to ask the Debtor
5 questions related to the bankruptcy case. It's really not an
6 opportunity to take individual discovery with respect to your
7 individual claim. Of course, your questions are related to
8 your own personal claims, yes, so what I'm asking is you keep
9 the questions to a minimum and with respect to the Debtor's
10 financial affairs.

11 So, I am recording this meeting on behalf of the
12 Office of the United States Trustee, and I have to emphasize
13 this, there can only be one official recording of this meeting,
14 and it's the recording my by office, the Office of the United
15 States Trustee. Anyone can get a copy of the recording. At
16 the conclusion of the meeting today, you can either email me at
17 Erin, E-R-I-N, dot Champion at USDOJ.GOV or you can call my
18 office at (315)793-8191. I will repeat all of that information
19 again later, at the end of the meeting, but just so you know
20 that it's very important that there is only one official
21 recording of the meeting.

22 Lots of you may not be familiar with the bankruptcy
23 process, so I thought it would be good just to give a little
24 two to three sentence overview. So, when an individual files
25 for bankruptcy under Chapter 11, that individual is seeking an

1 opportunity to reorganize his financial affairs or liquidate
2 assets to pay his creditors. So, filing the bankruptcy case
3 allows that Debtor to try to come up with a plan to reorganize
4 his financial affairs and propose a plan of repayment, and
5 while he does those things, he can continue to operate his
6 businesses. He can continue to own his assets. They are all
7 still under his control while he's in the bankruptcy.

8 This will allow the Debtor and his professionals to
9 come up with a plan of repayment based on what his assets are,
10 what he plans to do as far as liquidating assets, payments that
11 he might make over a plan of reorganization, and all of those
12 details will be in that document, which will be filed, you
13 know, later on in the case. That's not something that normally
14 gets filed right away, but you will be looking for that, and
15 you'll have an opportunity to review that and comment on it
16 when that process happens.

17 So, also, in a Chapter 11 case, a Committee of
18 Unsecured Creditors can be appointed by my office, and we, in
19 fact, did that in this case, and there is a Committee, and I
20 believe they're going to be participating in the meeting today
21 through their perspective counsel, Bond, Schoeneck and King.

22 Let's see, okay, I think I probably covered all the
23 preliminary remarks that I wanted to make, so we can actually
24 move on to the portion of the actual meeting at this time.
25 Let's --- so can I first get appearances by Debtor's counsel,

1 please?

2 MR. DOVE: Good morning, Jeffrey Dove of Barclay,
3 Damon on behalf of Mr. Marshall.

4 MS. CHAMPION: Thank you. And, Mr. Marshall --

5 MS. BIVONA: Beth Bivona --

6 MS. CHAMPION: Oh, I'm sorry.

7 MS. BIVONA: -- of Barclay, Damon on behalf of the
8 Debtor.

9 MS. CHAMPION: Beth, can you repeat that? I was
10 talking over you.

11 MS. BIVONA: Sure, I'm sorry. Beth Bivona, Barclay,
12 Damon, on behalf of the Debtor.

13 MS. CHAMPION: And is the Debtor present on the call?

14 MR. MARSHALL: I am.

15 MS. CHAMPION: Okay. Moving to prospective Committee
16 counsel, can you enter your appearances?

17 MR. RIVERA: Hi. This is Andrew Rivera, Bond,
18 Schoeneck and King, on behalf of the Committee, and I believe
19 Sara Temes is also on the line.

20 MS. CHAMPION: Thank you. Are there any other --
21 well, if there are counsel on the line that want to make an
22 appearance that don't have -- that are not unmuted, if you want
23 to just go ahead and contact the operator by doing this -- by
24 hitting star-zero, we can get your appearance noted now, or you
25 can just wait until we do the questions, after I finish with my

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1 questioning of Mr. Marshall, and you can enter it at that time.

2 MS. TEMES: Thank you, and this is Sara Temes. I
3 think I was on mute. I'm appearing, also, from Bond, Schoeneck
4 and King, on behalf of the Committee, as co-counsel.

5 MS. CHAMPION: Okay. Thank you. Okay. Mr.
6 Marshall --

7 MR. MARSHALL: Yes.

8 MS. CHAMPION: -- would you, please, raise your right
9 hand?

10 MR. MARSHALL: Yes.

11 M. BURTON MARSHALL, DEBTOR, SWORN

12 MS. CHAMPION: And for identification purposes, your
13 attorney has provided me a copy with your driver's license.
14 Can you just give me the last three digits of the
15 identification number on your driver's license?

16 MR. MARSHALL: Oh, I don't have that on me. I wasn't
17 aware of this.

18 MS. CHAMPION: Okay, not a problem. We can do that
19 at the end or we'll figure out another way to handle that.

20 MR. MARSHALL: I have a copy in my office here, and
21 I'll have someone get it for sure.

22 MS. CHAMPION: Okay, perfect.

23 EXAMINATION

24 BY MS. CHAMPION:

25 Q Okay, Mr. Marshall, did you review your petition,

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1 schedules and the statements that were filed in this case
2 before they were filed?

3 A Yes.

4 Q And are they true and accurate to the best of your
5 knowledge?

6 A Yes.

7 Q Do you know if there are any amendments or changes that
8 need to be made to the schedules?

9 A There may be a couple minor amendments of things we found
10 after the fact. What they are, escapes my mind. They're very,
11 very minor situations, I know that.

12 Q Okay. Thank you. And did you assist your attorney in
13 preparing the schedules and statements?

14 A Yes.

15 Q Also, I have to ask you, since this is an individual case,
16 do you have any obligation to pay anyone any type of domestic
17 support?

18 A No.

19 Q All right. And, Mr. Marshall, what is your current
20 address?

21 A 20 Payne Street, P-A-Y-N-E, in Hamilton, New York.

22 Q And how long have you lived there?

23 A Approximately 40 years.

24 Q Okay. And who else lives there with you?

25 A My wife, Megan Marshall.

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1 Q Okay. And I think on the schedules, you indicated that
2 that property has a value of \$475,000. Is that a tax-assessed
3 value?

4 A I don't have the tax in front of me. That's pretty close
5 to the assessed value.

6 Q Okay. And you own a number of other properties, which
7 we'll get to in a little bit, but do you have a residence in
8 any of the other properties listed on your schedules, other
9 than 20 Payne Street.

10 A Yeah, the camp. That's a seasonal dwelling that is solely
11 used by my family, if that counts.

12 Q Yeah, where is that located?

13 A It is on Tara Grove Road, Hamilton, New York.

14 Q And how long have you owned that?

15 A Oh, 35 years -- 37 years.

16 Q Okay. Okay. So, Megan Marshall, she is your spouse?

17 A Yes.

18 Q And she lives at 20 Payne Street, as well, you said?

19 A Yes.

20 Q So, according to your schedules, you owe her \$8,719.99.
21 What was that for?

22 A That was, I had borrowed money from her mother, and her
23 mother passed away, and that became Megan's share after her
24 mother's death.

25 Q Okay. And who -- who is Taber Colletti.

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1 A Taber is my step-daughter.

2 Q Does she live at 20 Payne Street?

3 A She lives in London. Her U.S. address is 20 Payne Street,
4 but she lives, physically, in London and has for ten years,
5 approximately.

6 Q And you owe her money, as well?

7 A Yes.

8 Q And what was that for?

9 A She got a bonus at work, and she lent me the money.

10 Q Okay. Did you pay back any money that you borrowed from
11 Megan Marshall or Taber Colletti within the year before filing
12 your case on April 20th?

13 A Megan, for sure, no, and I don't think Taber, although
14 Taber's is relatively in the last six months, so, no.

15 Q Okay. Have you paid back any relatives, in the past year,
16 money that you may have owed them?

17 A I think Marc Colletti is my step-son, and I think he was
18 paid some money within the last year.

19 Q Okay.

20 A I think Keith and Mary Hyde are my brother and sister-in-
21 law, and I think, within the past year, they were paid some
22 money back, also.

23 Q Okay. And I believe those were listed in your statement
24 of financial affairs, correct?

25 A I think so, yes.

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1 Q All right. Let's move on a little bit to your business
2 structure and the business assets. Other than your interest in
3 your businesses, do you have any other type of employment?

4 A I -- I have two sources of employment. I get a W-2 from
5 Miles B. Marshall, Inc., which is a separate entity, a sub-S
6 corporation that I own all the stock in. It's an insurance
7 agency, and I work for them, and I get a salary of, I think,
8 \$2,000 a week. And everything else is Burton Marshall, so I
9 don't get any outside income, no.

10 Q That was Miles B. Marshall, Inc., you said, right?

11 A Correct.

12 Q So, you -- have you received W-2 income from Miles B.
13 Marshall, Inc. routinely, let's say, in the past five years, is
14 that -- does that --

15 A Well, over 53 years, yes.

16 Q Okay. All right. And then you also conduct a number of
17 businesses, individually, through a d/b/a, correct?

18 A Through a series of different d/b/a's, yes.

19 Q Right, okay. So, let's just go through those and get a
20 little bit more information on those. We'll start with M & M
21 Press. Can you just describe the nature of that business?

22 A It's a small, local print shop where we print, you know,
23 stationary and banners and things were local individuals and
24 businesses.

25 Q And where is that business located?

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1 A 37 Milford Street in Hamilton, New York.

2 Q Is that a property that you own?

3 A Yes.

4 Q So, what kind of clients does M & M Press have?

5 A Individuals and small businesses and some non-profits.

6 Q And are you continuing to do business?

7 A That business is still in operation, yes.

8 Q Okay. And you use the account at Berkshire Bank that was
9 listed in the bankruptcy paperwork?

10 A Yes.

11 Q Okay. And is that the only bank account you use in
12 connection with M & M Press?

13 A Yes.

14 Q And, then, who would handle the day-to-day operations at
15 M & M Press?

16 A (Indiscernible) is my son, Matthew Marshall.

17 Q Do you receive any type of income from M & M Press?

18 A All the income goes into the M & M Press checkbook and
19 then immediately goes into M. Burton Marshall's checkbook, and
20 all the bills for M & M Press are paid out of M. Burton
21 Marshall, what I would call, the big checking account. The
22 only reason there's a separate checking account for M & M Press
23 is the bank required it, along with a doing-business-as
24 certificate. They would not let me deposit checks in the
25 Burton Marshall account that were made out to M & M Press. So,

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1 if you come in today and pay \$100 for printing, it goes into
2 M & M Press, and then when there's enough money in that
3 checking account, it all goes over to the M. Burton Marshall
4 checking account.

5 Q Okay. Is that the same set-up for the other d/b/a's, as
6 well?

7 A Yes.

8 Q Okay. So, Marshall Tax Service --

9 A Well, that is Burton Marshall, and there's no separate
10 checking account for that, other than Burton Marshall.

11 Q Okay. All right.

12 A Right.

13 Q That was my question. So, all of the income --

14 A Oh, wait, I take it back. There is a -- sometimes, people
15 make checks out to Burton Marshall Tax Service, and the bank
16 required that I get a doing-business-as and open a separate
17 checking account for that, and if there's ever any money in
18 there -- because that happens infrequently -- there might be
19 \$1,000 at most.

20 Q So, you'd have the same type of set-up, then? If
21 somebody, you know, pays you, it gets deposited into the
22 Marshall Tax Service account, and then you transfer it to the
23 M. Burton Marshall account?

24 A If someone writes a check out to the Marshall Tax Service,
25 it's a bank requirement.

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1 Q Right.

2 A And that would transfer over to the M. Burton Marshall
3 checking account, yes.

4 Q Okay. And then the expenses of Marshall Tax Services?

5 A Are all paid out of the M. Burton Marshall checking
6 account.

7 Q Okay. What kind of services do you provide under Marshall
8 Tax Service?

9 A I prepare income taxes for individuals and small
10 businesses, and we do payroll taxes and sales tax preparation.

11 Q Okay. Have you ever provided any investment services, in
12 relation to that business?

13 A Years ago, I was a certified financial planner, and that
14 ended more than 20 years ago.

15 Q Okay. And who is in charge of the day-to-day business at
16 Marshall Tax Service?

17 A Myself.

18 Q Okay. And do you have employees?

19 A I do.

20 Q And who are they?

21 A My employees? I have 25 --

22 Q Well, do you have --

23 A -- employees.

24 Q Do you have -- how -- okay. Well, how many full-time?

25 A In the office, there is Kim and Gary and Joy and -- and

Marshall - Champion

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1 right now, there's probably eight full-time inside employees.

2 Q Okay. And are any of them your relatives?

3 A The only relative that's my employee is Matthew Marshall,
4 because the payroll for M & M Press goes through Burt Marshall.

5 Q You mean the M. Burton Marshall account?

6 A Yes.

7 Q Okay. So, the payroll for Marshall Tax Service, does that
8 run through M. Burton Marshall, as well?

9 A Yes, yes.

10 Q All right. And then how about Marshall Moving? What kind
11 of services do you provide through Marshall --

12 A We used to move -- and I closed that business. We haven't
13 moved anyone in over a year. We've closed that business and
14 closed -- either closed or are closing the checking account.
15 I've given the documents to close the checking account. We
16 used to move a lot of students from Colgate Campus to storage
17 units is what that primarily was, and we no longer do that.

18 Q Okay. So, that business closed. When -- when did you say
19 that was?

20 A I just closed it in the last couple of weeks, because we
21 have this extra checking account that nothing's going through
22 it, and it's a waste of time to horse around with it.

23 Q Okay. And then, how about Marshall Storage, what is that?

24 A That is -- again, that's a bank requirement. People make
25 checks out to Marshall Storage to pay for the rent on the

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1 storage units, but all of the money gets transferred over to M.
2 Burton Marshall checking account. And that's just another
3 rentals. I have three different storage locations.

4 Q Okay. So, you've got three different storage locations,
5 and so, Marshall Storage is just, really, typical, what you
6 would see, those big storage -- groups of storage units, right?

7 A Yes.

8 Q And, then, how many units are in each location?

9 A I think at the -- we call it the north side, I think
10 there's 86. At the south side, I think there's 66 or something
11 like that.

12 Q Okay. And how -- how --

13 A The third location is a big old beautiful dairy barn that
14 we -- so we call it Big Stuff Storage. We store big stuff,
15 such as cars and boats and campers.

16 Q Okay. And how long have you had that business?

17 A I've had that business for 15 or 20 years.

18 Q And what percentage, would you say, of the units are
19 rented?

20 A Today, 99 to 100 percent.

21 Q And do you personally store any of your own belongings in
22 any of the units?

23 A There's one unit that has stuff that we use in business
24 for the rentals, so they brought -- I don't know what's up
25 there. I've never been in the unit. There's probably salt for

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1 when we plow the driveways in the Winter, and that's pretty
2 much what's in there. But my own, personal items, no.

3 Q Okay. And then same type of set-up with the banking? Do
4 you know, would money go into Marshall Storage, the account,
5 and then get swept into the M. Burton Marshall big account, as
6 you called it?

7 A Yes.

8 Q How do you designate or keep track of what went into the
9 M. Burton Marshall account, based on which business it came
10 from?

11 Do you know what I'm asking? Maybe I'm not asking
12 that in a -- so, when all of these -- all of this revenue --

13 A Well, I get to see what -- it's sent electronically, so
14 you can see it goes from account, you know, whatever the
15 numbers are, into the other account, whatever the numbers are.

16 Q So, if you wanted to figure out, okay, well, how much
17 money is Marshall Storage making versus Marshall Moving --

18 A Well, we have a -- we keep separate records of how much
19 rent we take in.

20 Q Okay. All right.

21 A But, that's all separate records. We have all of those,
22 of course.

23 Q And how -- how do you keep those records, what format?

24 A (Indiscernible).

25 Q Like is it Excel or what kind of --

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1 A Oh, It's a -- we have a service -- a storage service that
2 provides it to me electronically through the storage, an app.

3 Q So, what -- if you wanted to do a revenue comparison with
4 all of your business interests, how would you look at that?

5 A How would I find it out, you mean?

6 Q Yeah.

7 A Well, with the storage business, we ask the machine how
8 much revenue we took in, in such and such a period of time, and
9 the same with the regular rental company. We have an
10 application for that. It's a different service, but it's the
11 same sort of thing. For the tax business, we do it out of the
12 receipt book. Anytime I do a tax, we write a receipt, and we
13 add those up, and M & M Press, we keep track of manually, on a
14 yellow piece of paper. Anytime we take in money, we write down
15 the receipt number, and the sales tax we collected and keep it
16 by the month.

17 Q Okay. So if I were to look at your bank statements for
18 the last year, with -- well, if I were to look at the M. Burton
19 Marshall big account statements, how would I know which amounts
20 are coming into that account that came from rentals versus
21 storage versus M & M Press?

22 A Well, M & M Press would be a withdraw from the M & M Press
23 account going into Burt Marshall. That's how you would find
24 that out.

25 Q Well, no, if I'm just looking at the M. Burton Marshall

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1 account statements, how do I tell where that money came from?

2 A It would be the deposits from the other accounts would
3 have the account that it came from. You can tell that way.

4 Q So, really, you can't tell unless you're looking at the
5 transfers from the other accounts?

6 A Well, with the caveat that anything -- the storage units
7 and the rents are on these apps, and those people deposit us
8 once periodically when they receive the monies. And you can
9 tell where that money came from. And, certainly, the bulk of
10 the storage and the bulk of the rents, 90 percent is coming in
11 through this service, and they're depositing it to my account.

12 Q Do you know the name of the service?

13 A One is AppFolio. We can find out the other one.

14 Q AppFolio?

15 A Yeah. I also have the last four of my driver's license,
16 is you want that now.

17 Q Oh, great. Yeah, I think just three numbers.

18 A The numbers are four, one, two.

19 Q Oh, perfect, that's what I have. Okay, check that off
20 now.

21 Okay. So, the money -- so, tenants or people renting
22 the storage units, they just, when they hit the payment on line,
23 pay it, like, electronically pay, then that money gets held by
24 this electronic service, AppFolio, and then they make a deposit
25 to your account directly.

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1 A Yes.

2 Q And is that once a month?

3 A No. It's as they receive the money. There's a little lag
4 time, maybe two or three days. So, today, I'm getting --
5 today's the fifth -- I'm getting a lot of rents in today that
6 people probably paid on the first of the month. The biggest
7 day for the rents won't be until the 7th or 8th, and I'll take
8 in a lot of money on the 7th or 8th. This is that lag time.

9 Q Okay. So, each of these businesses that we've talked
10 about -- and there's others -- you know, Marshall Maintenance,
11 I don't think we've covered -- and then, obviously, the
12 rentals, have you always used Berkshire Bank for those
13 accounts?

14 A No. Before Berkshire, which I've used for ten years or
15 so, I used the Community Bank in town, and before that, I used
16 the NBT Bank in Hamilton.

17 Q Okay. And other than the accounts that you listed in your
18 schedules, which are all at Berkshire Bank, do you have any
19 other checking, savings or any other money market accounts?

20 A I have no money market accounts. I have no savings
21 accounts, and I am pretty sure I don't have any other checking
22 accounts.

23 Q Okay. So you have the M. Burton Marshall account, which
24 is the big account.

25 A Yes.

Marshall - Champion

24

1 Q You have M & M Press, Marshall Tax Service, Marshall
2 Moving, Marshall Storage, Marshall Maintenance and Marshall
3 Rentals, right?

4 A Right. And the Marshall Maintenance and the Marshall
5 Moving are in the process of being closed, if they haven't
6 already been closed.

7 Q Okay. So, Marshall Maintenance is being closed, you said?

8 A Yes.

9 Q What did that -- what was the purpose of that business?
10 What did it do?

11 A People would ask me if we had a handyman available to go
12 over and do jobs at their home or business. So someone would
13 say, I need someone to, you know, change my water heat or put
14 salt in my soft water or some small, little job like that.

15 Q Okay. And then, Miles B. Marshall, Inc., what -- is there
16 a separate bank account for that business?

17 A Two separate bank accounts for that.

18 Q Where are those bank accounts?

19 A Berkshire Bank.

20 Q And when was Miles B. Marshall incorporated?

21 A 1962.

22 Q And you're the sole owner, correct?

23 A I own all the stock of Miles B. Marshall, Inc., yes.

24 Q And it's an active corporation?

25 A Yes.

Marshall - Champion

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1 Q And I think you said earlier that you receive a salary of
2 \$2,000 a week, was it?

3 A \$2,000 a week, and then I'll take bonuses out. The
4 bonuses and insurances come the end of January or February, so
5 there's -- and, in fact, left-over money in that business, I'll
6 take it out then as a distribution or bonus, whatever you want
7 to call it.

8 Q Right. Okay. So that business is an insurance agency,
9 right?

10 A Yes.

11 Q Okay. So, how does that work? I mean, are you an agent,
12 and you sell a particular --

13 A Yes.

14 Q -- type of insurance? Explain that.

15 A Miles B. Marshall, Inc. is an agent, yes.

16 Q For which insurance companies?

17 A For many different insurance companies, the largest of
18 which is New York Central Mutual Fire Insurance Company.

19 Q Okay. And then, what kind of insurance do you sell?

20 A Auto insurance, home owner's insurance, small business
21 insurance, worker's compensation.

22 Q Okay. So, you don't do any life insurance?

23 A Yes, we do a little bit of life insurance, but not a lot.
24 But, yes, we do.

25 Q Okay. So, in your schedules, you attributed a value of \$3

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1 million to Miles B. Marshall, Inc. What was the basis for
2 that value?

3 A Well, currently, we're having an appraisal made, and I
4 should receive that within, hopefully, this week. This
5 person's late, but it's three times annual commissions, which,
6 generally, has been a good rule of thumb for the value of an
7 insurance agency.

8 Q Three times that annual commissions, okay?

9 A Last year, it exceed 1.1 million, I think.

10 Q And have you ever sold investments as part of the
11 insurance company, insurance agency?

12 A No. I take that back. I had a Series 6 or Series 7
13 license years and years ago, 30 years ago, and I would sell
14 tax-deferred annuities, mostly to people who worked at non-
15 profits, so, like, school teachers and people that worked in
16 the hospital, that sort of thing. And I used that back then.
17 And at some point, that came around to me doing full-time, and
18 I was not able to do that, and so I surrendered my license.

19 This was back in th '80s, at least.

20 Q All right. So, I'm just going to make a couple of
21 document requests while I'm thinking of it. I would like to
22 see the tax returns for the corporation for 2022 and 2021. And
23 I do have your personal income tax for 2022, but I'd also like
24 to see 2021.

25 A My lawyer has been provided --

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1 Q And I can follow-up with your attorney.

2 A -- (indiscernible) he can forward that to you.

3 Q Yeah, I can -- I can follow-up with him. I just wanted to
4 get that on the record before I forgot.

5 A '21 and '20, you want the corporate tax?

6 Q Yes.

7 A Okay, that's not a problem, and we'll get it to you,
8 probably, today.

9 Q Okay. So, other than what we've talked about and what
10 we've covered, do you have any other ownership interests in any
11 other businesses?

12 A No.

13 Q And what is your education background, Mr. Marshall?

14 A I went to high school. I have a lot of years worth of
15 college. I quit college.

16 Q Okay. So are you a CPA?

17 A No, I am not.

18 Q So you are a tax preparer, is that a correct term?

19 A The service has a designation called enrolled agent to
20 practice for the IRS --

21 Q Oh.

22 A -- which involved a two-day exam, and I did that 37 or 38
23 years ago, so I'm an enrolled agent.

24 Q Okay. So, you're an enrolled agent. Do you have any
25 other types of licenses or certifications?

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1 A I'm a certified insurance counselor, and the license, I
2 have a New York State life insurance agent's license and a
3 property and casualty agent's license.

4 (Telephone conference interruption)

5 A Are you there?

6 Q I'm still here. I'm not really sure what that is.

7 MS. CHAMPION: Jeff, are you still on?

8 MR. DOVE: Yes, I am still on.

9 MS. CHAMPION: All right. Let's just take a quick
10 little break. I'm just going to message the operator to see
11 what happened there.

12 THE OPERATOR: Excuse me. You're back in the call.

13 MS. CHAMPION: Okay, great. Thank you.

14 BY MS. CHAMPION:

15 Q Okay. So, Mr. Marshall, you can hear me still?

16 A Yes, I can.

17 Q Okay, great. Okay. So, we had just left off, and you had
18 just described that you had agents licenses. Okay. So, that's
19 still -- you are still active. You are still an agent. You're
20 still selling policies through Miles B. Marshall Insurance,
21 right?

22 A Yes.

23 Q Okay. And then your tax preparation business, when is the
24 last time you prepared a tax return for a client?

25 A Saturday.

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1 Q Okay. So, you're continuing to do that?

2 A Yes.

3 Q Okay. I know that you had had some health problems. We
4 don't need to get into details, but you had said that that
5 affected your -- your tax service business. Is that still the
6 case?

7 A It's the case that I lost a significant portion of my
8 business while I was sick, and some of that business will never
9 ever come back, because you do taxes predominantly late in
10 January, February, March and April, and I was sick the end of
11 January, February and March, and I got back in the office, I
12 think the end of March on a limited basis.

13 Q Okay. So, but you expect to be still doing those
14 services, let's say, next tax season?

15 A As of today, that's what I expect, yes. A lot of it
16 depends on all of this bankruptcy stuff plays out, and --

17 Q Okay.

18 A -- it's very discouraging, but, yes, that's my plan today.

19 Q Okay. So, in your schedules under other amounts that
20 someone owes you, so we're talking about people that owe you
21 money --

22 A Right?

23 Q -- it shows that you're a mortgagee on a couple of
24 different properties, several different properties?

25 A I think it's four, yes.

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1 Q Okay. Do you know when you loaned those individuals
2 money?

3 A Not off the top of my head. I can certainly find out
4 pretty quickly.

5 Q Okay, yeah, that would be great. And if you need
6 reference to where it is in your schedules, it's Part 4 --

7 A Well, the Strong Collins --

8 Q -- question 30.

9 A -- one is right here. It looks like I sold you that
10 property.

11 (Pause)

12 A The one in Poolville that goes to Strong Collins, it looks
13 like I sold about March of 2010.

14 Q Okay. So, then, what, you just took back the mortgage
15 yourself, then?

16 A Yes. And the Miller property, it looks like their first
17 payment was September of '18, so I would have sold it,
18 probably, August of '18.

19 Q Okay. And then what about the other two?

20 A I'm digging as fast as I can. And Jones, it looks like
21 2000.

22 Q Okay.

23 A October 26th, 2007 is looking at that quickly.

24 Q There's a fourth one?

25 A Oh, the fourth one is Hubbertville, and I think I sold

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1 that. Wrong folder. I can't put my hands on that fourth one
2 now, but it's been eight years, probably.

3 Q Okay. All right. It wasn't within the last year?

4 A No, no, certainly not.

5 Q And those individuals are continuing to make payments
6 under those mortgages to you?

7 A They are.

8 Q Okay. I know I asked you about money markets earlier, but
9 you do have any interest in any bonds or mutual funds or
10 stocks?

11 A No. My use for those were all liquidated prior to the
12 filing of the bankruptcy.

13 Q And when were they liquidated?

14 A Well, I was in the hospital, so probably February of this
15 year.

16 Q And what was it? Was it stocks, mutual funds? Was it in
17 a brokerage account?

18 A There was no bonds. And there was a brokerage account
19 with Leigh Baldwin in Cazenovia, and I owned some individual
20 stocks, all water type stocks.

21 Q Okay. So, all of your stocks have been liquidated at this
22 point?

23 A Yeah. I own no stock, other than Miles B. Marshall, Inc.

24 Q Right, right, right. What about any retirement accounts?

25 A None.

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1 Q Have you ever had any?

2 A In the past, I have had, yes.

3 Q How recently?

4 A 15 years ago.

5 Q Okay. And, Mr. Marshall, have you ever been subject to an
6 audit by the IRS?

7 A No, I've never been audited by the IRS.

8 Q All right. We're going to move on now to the portion of
9 your schedules, Schedule E/R where you list your creditors and
10 the people to whom you owe money.

11 A All right.

12 Q So, there's roughly about 900 individuals that you list in
13 your schedules from whom you borrowed money in the form of
14 promissory notes, is that correct?

15 A Yes.

16 Q Okay. So, a key piece of information that's actually
17 required to be disclosed that was not included in that
18 information was the dates that those debts were actually
19 incurred. So I'll get to that in a few minutes, but I do have
20 a couple of questions I want to ask you before we get into that
21 deeper. So, in general, when you received these monies from
22 these individuals that you owe money to, was that deposited
23 into the big account, the --

24 A Yeah.

25 Q -- M. Burton Marshall Berkshire Bank account?

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1 A Yes.

2 Q Okay. And some of them are probably notes that you had
3 prior to the Berkshire Bank account, is that --

4 A Yes.

5 Q -- is that possible?

6 A Yes.

7 Q Okay. So, the older ones could go back to that Community
8 Bank or MBT account that you referenced earlier?

9 A Yes.

10 Q Okay. But would those be the only three possible places
11 where those monies that you borrowed would have been deposited?

12 A Yes.

13 Q Okay. And, then, did you also make the payments under
14 those notes from that same account?

15 A Yes.

16 Q Okay. And how did you keep track, then, of what was due
17 under each of those promissory notes?

18 A Each promissory note was, by itself, segregated, and
19 there's a -- each note would have a balance there. There's a
20 column for money they put in and a column for interest they've
21 earned, and a column for money that's taken out.

22 Q Okay. So when you say segregated --

23 A So, each person, person A will have a separate account,
24 person B, person C, da-dah, di-dah, di-dah.

25 Q So, they had a separate account, what do you mean by that,

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1 if it was all going in the M. Burton Marshall big account?

2 A I mean, they would have a separate note.

3 Q Okay. All right, a separate note.

4 A I always attach this worksheet, so to speak, that shows
5 how much their balance is.

6 Q So, the worksheet, is that an electronic worksheet or is
7 that actually something you're doing on paper?

8 A Well, originally, we did it manually, and then, at some
9 point, we switched over to electronically.

10 Q Okay. So, what kind of electronic program are you using?
11 What kind of software? Was it an Excel program or something
12 else?

13 A Well, no, it's a program we designed ourselves.

14 Q Okay. All right. Who designed it?

15 A David Will.

16 Q I'm sorry, say that again?

17 A David Will.

18 Q David Will, W-I-L-L?

19 A Correct.

20 Q Okay. And does he work for you?

21 A Yes.

22 Q He's an employee?

23 A Yes.

24 Q Is he still an employee?

25 A Yes.

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1 Q Okay. So, this program that he created, then, you keep on
2 your computer in your office?

3 A Yes.

4 Q Okay. Now, do you also keep, like, a separate file on
5 each of these notes, a physical file?

6 A Yes.

7 Q And that would include, what, like correspondence,
8 statements?

9 A It would include, well, all of the above. It would
10 include a copy of the original note, and then the transaction
11 history and any correspondence or anything we receive, so some
12 of them are very thick, and many are very thin.

13 Q Okay. How many of those files would you say that you
14 have?

15 A 900.

16 Q Okay. So, 900, and so, equal to the number of people that
17 were listed in your schedules, roughly?

18 A Roughly.

19 Q Okay. Okay. So, getting back to the requirement to
20 include the date that those debts were incurred, I think that's
21 important information, and you would be able to get that
22 information, correct?

23 A Yes.

24 Q Okay. So, I think your schedules should reflect that and
25 need to be amended to show when those dates were -- when those

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1 debts were actually incurred.

2 A Okay.

3 Q So, would you -- if I wanted to take a look at, just,
4 like, let's say, just a list of all these notes and the dates
5 that they were incurred, would you be able to access that
6 information relatively easily?

7 A The notes that were created after it was electronically,
8 yes. There's still some notes that were done manually that we
9 converted to electronic on such and such a date, and those
10 would be somewhat more difficult to obtain, but, ultimately,
11 you can obtain them, yes.

12 Q Okay. So, you would be able to extract information out of
13 this software or this program that David Will created. Like,
14 you know, I want a list of all of the notes and --

15 A Those that were created before we went electronically,
16 yes.

17 Q Okay. All right. So, did you convert, then, all of the
18 pre-electronic filing system, did you convert all of those
19 folders or those notes --

20 A Yes.

21 Q -- into the electronic format --

22 A Yes.

23 Q So, everything should be accounted for in that program?

24 A Yes.

25 Q Okay. So, when you borrowed these funds from these

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1 individuals, it was on a promissory note?

2 A Yes.

3 Q Okay. So, what did you promise these individuals in
4 return for the money you borrowed?

5 A Eight percent interest in most cases.

6 Q And so, what were the terms?

7 A Each note was different terms. Some people, we said,
8 well, we'll pay you the interest monthly, if that's what they
9 wanted, or quarterly or annually. Some people, we'd pay their
10 quarterly estimated income taxes. Each one was individual to
11 itself.

12 Q So, how did you keep track of that if they were all
13 different types of arrangements?

14 A With good bookkeeping.

15 Q This information would somehow be --

16 A It would be incorporated into the electronic system, so if
17 somebody was getting paid quarterly, we would update that note
18 three months from today, for example, and it would kick it out
19 of the suspend system or if it was monthly interest or next
20 year, if we're paying somebody's quarterly payments, we have a
21 list of whose quarterly payments we were paying for the income
22 taxes.

23 Q And did you provide these individuals with a periodic
24 statement of their account?

25 A Yeah. Anytime money went in or went out, they would get a

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1 statement.

2 Q But not on a regular -- you know, like say I give a loan
3 to somebody or take a loan, you know, I would get a monthly
4 statement showing what my balance is, so --

5 A They weren't all monthly. Some people wanted it
6 quarterly. Some people wanted it annually. Some people didn't
7 want us to update the interest at all for tax purposes, said
8 wait until I retire or some such time.

9 Q Okay. So, how did these arrangements come about?

10 A Rephrase the question, please.

11 Q Tell me about -- I'm just curious. I mean, these are a
12 lot of different -- 900 different individuals that you borrowed
13 money from. So, is it a situation -- you know, what was that
14 conversation like. Ho did you approach these people for money?

15 A Well, primarily speaking, most people had heard about
16 through word of mouth, so they'd come in, and say that they
17 wanted to lend me money.

18 Q So, they heard that, through word of mouth, that other
19 people were lending you money --

20 A Yes.

21 Q -- and so they also wanted to lend you money?

22 A Yes.

23 Q So, they knew this was a situation -- to the best of your
24 knowledge -- I know you can't speak for these individuals, but
25 your understanding is that they knew that this was money that

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1 they were lending you?

2 A Yes.

3 Q Okay. And did you present it as an investment opportunity
4 for them?

5 A I did not present it as an investment opportunity. I
6 presented it as they were lending me money, in return for,
7 generally speaking, eight percent interest.

8 Q What did you tell them that they were lending you money
9 for?

10 A For my -- predominantly, the real estate business, to buy
11 more real estate, to make improvements in the real estate, to
12 pay bills in the normal course of business for the real estate,
13 pay debt service on the real estate loans.

14 Q And did you make them aware of that -- were they aware of
15 -- well, let me rephrase that.

16 So, you told them, when they said, hey, I want to
17 lend you some money, you said, okay, I'm going to borrow X
18 amount of dollars, and I'm going to buy real estate with that?
19 Is that how most of those went?

20 A They -- most people -- some people asked. Some people
21 didn't ask what I would do with the money. Some people would
22 come in and say, gee, I'd like to lend you \$10,000, and that
23 would be, basically, the end of the conversation. And some
24 people would sit down and have a lengthy conversation. And
25 some people, I would take out to different projects or

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1 buildings and show them. It depends on what someone wanted.

2 Q Okay. So, let me skip ahead to a couple of things. When
3 did you first start that program of borrowing money to and
4 (indiscernible)?

5 A I don't know for sure, but it was in the early '80s.

6 Q Okay. So, that's about 30 years?

7 A Well, it's about 40 years.

8 Q It's about 40 years. Okay. So, I reviewed just some of
9 the proofs of claims that were filed in the case, just to kind
10 of get an idea of what these notes were about, and I saw that
11 there was an addendum to a note that had a number of 4,818 on
12 it. So, does that mean that there is -- potentially, there was
13 5,000 promissory notes or borrowing agreements out there?

14 A It means that if you had a note, and then you came in a
15 year later, and said, I want to --

16 Q Right, I get that.

17 A -- add \$10,000 to the loan, it would be an addendum, as
18 opposed to a new note.

19 Q So, the note, itself, though, had a number on it. It was
20 like 4,818.

21 A Correct.

22 Q So, in your estimation, would you have about that many
23 notes, meaning, over the years, that's how many notes you were
24 generating?

25 A Oh, no, there's not that many outstanding, because some of

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1 them paid off. Many have been paid off.

2 Q Well, right. Right.

3 A People came in to -- but over the course of years, yeah,
4 that's the number.

5 Q Okay, all right. So, what's the average you would -- I
6 was -- the average yearly total, I guess, of all the payments
7 that you were making under these notes, I would say? I mean,
8 you don't have to go back 40 years. But let's just say in the
9 last five years, how much were you paying out on average?

10 A I don't know off the top of my head. I'd have to check my
11 end-of-year statements to see, because those, I don't have at
12 this -- you know, at this desk.

13 Q Okay. So, and you said that the individuals could decide
14 whether they wanted, you know, interest payments monthly,
15 quarterly, yearly or deferred until retirement, correct?

16 A Correct.

17 Q Okay. So, say an individual wanted their interest on a
18 quarterly basis, then, would you write a check, then, out of
19 that M. Burton Marshall account?

20 A Yes. Yes, we'd write a check.

21 Q Okay. All right. So, just before you filed your case,
22 you made several payments to creditors on the same day. How
23 did you determine who you were going to pay before you filed
24 your bankruptcy?

25 A What do you mean several payments? I paid everyone a half

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1 of one percent of the principal. That was just before we filed
2 bankruptcy.

3 Q Yeah. I have a couple of those questions, but
4 specifically, so you -- you took a certificate -- or you took a
5 credit counseling class online, probably, right?

6 A Yes.

7 Q Okay. And that was for the purpose of you filing for the
8 bankruptcy, correct?

9 A I took that counseling because I understood, based on what
10 my attorney said, that I had to take the class, yes.

11 Q Okay, good. And it looks like that was done on April
12 10th, so just ten days before you filed. But you also made
13 several payments to creditors on that same, exact day. So you
14 cut checks to different people that you owed money to.

15 I am asking you, why those people?

16 A Not knowing the specifics of who it was, I'm not sure.

17 One was Ed Vollmer. I know he's dying, and we wanted to give
18 him 1,000 bucks or something like that.

19 Q Okay.

20 A I think I have that written down somewhere. I'm just
21 trying to look through my notes. I'll get back to it. So, do
22 you know how much average income that you get from your rental
23 properties in a year, on average?

24 A The rents take in, I think -- I think close to \$3 million.

25 Q Okay. And how much do you pay out in property taxes a

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1 year?

2 A Oh, in taxes -- we just (indiscernible) village taxes --
3 they were roughly 150. The school tax is much larger. It's
4 probably 300, and probably six or \$700,000.

5 Q Okay. All right. So, there's creditors that you list
6 that aren't individuals, necessarily. There's, you know, fire
7 departments, cemetery associations --

8 A Correct.

9 Q -- living trusts, estates that you list in your schedules.
10 Was that also for the same type of arrangement under the
11 promissory note for those transactions?

12 A Yes.

13 Q So, it was the same terms, the eight percent?

14 A Yes.

15 Q And did those associations -- I'm just asking you in
16 general, because, I mean, there's a lot of creditors here so
17 it's difficult to narrow down on just one single one, but you
18 had just said earlier that people approached you, because they
19 had heard, oh, I leant Burt Marshall money, and, you know, you
20 should do that, too.

21 Was that the same type of thing that happened with
22 these other creditors, non-individual creditors?

23 A These would be someone or someones that had lent me money
24 that's on the Board or is trustee or some such thing like that.

25 Q Okay. So, what about, like decedents' estates, were you

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1 approached by, what, the Executor of that estate?

2 A Those -- there's no new money coming in from an estate, to
3 the best of my knowledge. Those all came about, someone that
4 had a note passed away --

5 Q I see, okay.

6 A -- so we rewrote the note in the name of the estate.

7 Q I understand. Okay. All right. When was the last time
8 you borrowed money from an individual under the promissory note
9 agreement?

10 A I would think in January, because I'd been in the
11 hospital. I got out in December, and then I was working a
12 little bit, and then I had, effectively, a relapse in the end
13 of January, and that -- there was no money borrowed after I
14 went in the hospital the second time, so in January.

15 Q So, the -- do you remember how much it was for?

16 A I do not.

17 Q Do you remember what you did with the money?

18 A Put it into the Burt Marshall checking account.

19 Q So, the payments that you made under these notes to these
20 creditors over the years, what source of money, income or
21 revenue did you use to make those payments or interest
22 payments?

23 A Again, all the monies coming in, effectively, went into
24 the Burt Marshall checking account. So, my wages went into
25 that account. My Social Security check was in that account.

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1 All of the rents go into that account. All of the money from
2 M & M Press was in the account. People lend me new money, it
3 goes into that account. So, all the money goes into that pot,
4 if you will.

5 Q So, the new money, then, that you were getting by
6 borrowing money from individuals could have been paying out
7 money you owed to other individuals, correct?

8 A It could have been partially used for that, yes.

9 Q So, there is no separate account or any type of fund for
10 this eight percent fund?

11 A Correct.

12 Q And, like, can you explain that, again, to me? What is
13 the eight percent note fund?

14 A Well, there is no fund. People would lend me money, and I
15 don't know where the word fund came from. I did not --

16 Q I think it's actually on your documentation.

17 A Well, I did not put it there to the best of my knowledge.
18 Certainly, other people that I'd loan money to call it a fund,
19 but I do not call it a fund. But the money would just come
20 into the checkbook, and we had all of the notes that we kept
21 track of separately, so we could keep track of how much I owed
22 them.

23 Q So, you never contacted people in writing and said, you
24 can always put more money into this eight percent note fund,
25 eight percent promissory note fund is exactly the words?

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1 A Well, if the word fund is in there, it's a mistake, and it
2 ought not be included there, and I recall I ever wrote any
3 letters that they could put money in, you know, but I borrowed
4 more money from them.

5 Q Okay. All right. And then, how was the interest
6 calculated? What type of formula did you use?

7 A It was a formula on the computer divided by 365 days. So
8 if you had X amount on January 1st, and you come in February
9 15h, we would update the interest, and that would be calculated
10 by 46 days divided by 365 days times eight percent.

11 Q Okay, so a straight eight percent, then?

12 A Yes. I mean, there's one case where it's six percent, but
13 99.9 percent are eight percent, yes.

14 Q Okay. So, based on your schedules, it looks like most of
15 your creditors are in the Central New York area, but definitely
16 not all of them. In fact, you owe a lot of money to people
17 from all over the country and even out of the country, you
18 know, Alaska, Hawaii, California, Montana, Japan. Did those
19 individuals reach out to you or was it the other way around?

20 A No, they reached out to me. They were -- I did their
21 taxes or they were friends of friends, word of mouth, or they
22 were people that were here that moved away, and in a lot of
23 cases, they're family. So, the parents might live here and
24 they moved to, for example, California. There's the one person
25 in Japan or Taiwan or something, I know, and that person, he's

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1 from Sherburne, New York, which is ten miles down the road. He
2 just happens to live there -- family.

3 Q So, again, okay, you would do these people's individual
4 tax returns, and they would say, oh, Burt, I also heard I can
5 lend you money? Is that how you're saying the transactions
6 went?

7 Q Or -- or was it, were you -- were you approaching them,
8 saying, hey, if you lend me X-amount of dollars, I can --

9 A Certainly, on occasion, I would approach them and ask them
10 if they would lend me money, but not the majority of the times.
11 The majority of the times, they would ask me.

12 Q And what would they ask you exactly?

13 A Well, everyone would ask differently. They'd ask, you
14 know, I heard you paid eight percent or some such thing like
15 that, and then, we'd have a conversation about it.

16 Q Okay. Okay. So, moving to the rental properties, you own
17 more than about 100 different properties located in the Madison
18 County area, correct?

19 A Correct.

20 Q And how did you attribute a value for each of those
21 properties when you were preparing your schedules?

22 A The values were based on the taxable assessed value.

23 Q And are you going to be having those properties appraised?

24 A Presumably. That's going to be up to the financial people
25 and my attorney. It probably won't be my decision.

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1 Q Have you ever had an appraisal done of all of your assets?

2 A No.

3 Q Okay. And then, you've got about 240 tenants, according
4 to your schedules and --

5 A Well, there are apartments, and then there's another 160
6 -- 140 storage tenants, yes.

7 Q Okay. So, and they're primarily residential properties,
8 right?

9 A Not totally, but, yes.

10 Q So, you do have commercial tenants?

11 A Yes.

12 Q Do you know how many?

13 A Well, in this office here, I rent to myself, and that was,
14 you know, our sole one. I have a commercial building next
15 door, here, and that is, one, two, three, four, so that would
16 be five, and then (indiscernible) four or five tenants, ten, so
17 15 or so commercial tenants.

18 Q And do you have written commercial lease agreements with
19 the commercial tenants?

20 A The lease is different than the residential lease, yes.

21 Q So, you do have written leases in the commercial lease
22 agreements, right?

23 A Yes.

24 Q Okay. And then, what about your residential properties?
25 Do those tenants have a written lease?

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1 A Yes.

2 Q Okay. And how do tenants normally pay their rent?

3 A Most people pay through the app, and so it's mainly
4 electronically.

5 Q Do any of your tenants pay in cash?

6 A Yes.

7 Q How many would you say, what percentage of your tenants?

8 A I would say 85 to 90 pay through the app, and the cash
9 people pay one percent or two percent.

10 Q Okay.

11 A A small number.

12 Q And did that cash get deposited into the M. Burton
13 Marshall account?

14 A Yes, it did. Once in awhile, I would take out \$100 for
15 myself, but we've noted that down, and we have a cash thing,
16 because the cash would come up short by what I took out. But
17 normally, yes, all the cash is deposited except for that. I
18 give myself an allowance of \$100 a week.

19 Q \$100 a week allowance for, what?

20 A Cash. You know, to get a hair cut or stop at the farmer's
21 market or some such thing.

22 Q From the rental income?

23 A Yeah.

24 Q Okay. Or the tax income. Sometimes, tax clients would
25 pay in cash, but it all goes into one area, and I would just,

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1 like, write a note to whoever was in charge of that, that I
2 took out \$100 in cash.

3 Q Okay. So, there's a mortgage listed on a property located
4 at 98 Holland Street in Hamilton, and it's just shy of \$80,000
5 owed to George Bullock, Sr.?

6 A Yes.

7 Q And it looks like you incurred that debt January 24th of
8 this year?

9 A We acted to buy it -- and I don't have it in front of me
10 -- in October/November, and it took that long for the attorneys
11 to catch up with the paperwork.

12 Q Okay. So the closing was probably some time in January,
13 then?

14 A Well, I don't have it in front of me, but that sounds
15 about right, December or January.

16 Q Okay. So, it looks like, based on the County records,
17 that you purchased it for \$110,000?

18 A Right, I gave them a down payment.

19 Q Okay. The down payment was about \$30,000, then?

20 A I think it was 25, but --

21 Q 25/30? Okay.

22 A Yes.

23 Q Would that 25 or \$30,000, would that have come out of the
24 M. Burton Marshall account?

25 A Yes.

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1 Q Okay. So, as far as the vehicles that you own, you list a
2 2016 Dodge Caravan, a 2016 Subaru Forester and a 2019 Ford 250.
3 Are those the only vehicles that you own?

4 A Yes.

5 Q And which vehicle do you primarily drive?

6 A I drive the Chrysler product. My wife drives the Subaru
7 product. And the truck is a plow truck. I've never driven
8 that. One of my people is the plow person, and they drive it,
9 and they, you know, move materials around, but predominantly,
10 it's used for plowing.

11 Q Okay. You also, in your schedules, list some household
12 items, including a painting and jewelry. How did you arrive at
13 those values?

14 A Just a ballpark. The one painting, we paid \$4,500 for, so
15 we figured that's worth a little bit more. That's a local
16 artist who just passed away.

17 Q Okay.

18 A And the jewelry was my wife's, and (indiscernible). I
19 listed that, and she inherited that from a family member.

20 Q Do you have an insurance policy covering the contents of
21 your home?

22 A Yes.

23 Q Do you know what the value is?

24 A On the contents?

25 Q Yeah.

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1 A Well, it's 100 percent of what's on the house, and so,
2 it's -- the house is insured for one and a half million or some
3 sort, so it'd be another one and a half million on the
4 contents.

5 Q Okay.

6 A But only because it's a function of how much insurance you
7 write on the house --

8 Q Right.

9 A -- with that particular insurance contract.

10 Q But you have any, like, specific riders for --

11 A Just for the jewelry.

12 Q You do have a rider for the jewelry?

13 A Yes.

14 Q And do you know how much that is for, how much the policy
15 is for?

16 A It's for the same values as that jewelry is listed for.

17 Q Okay. So, you also list five different life insurance
18 policies?

19 A Correct.

20 Q And they're all term life policies, is that correct?

21 A Yes. Yes.

22 Q And I don't think you listed the beneficiaries of those
23 policies?

24 A The Estate of M. Burton Marshall is on the three big ones.

25 Q That have the face value of six million?

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1 A Right. And then the small ones with Globe, I think, my
2 wife, Megan Marshall, is the beneficiary.

3 Q Okay. So there's three separate policies that have a face
4 value of six million, so are those the ones that the Estate of
5 Burt Marshall is the beneficiary?

6 A Correct.

7 Q That's correct?

8 A Yes.

9 Q So, on your 2022 federal income tax return, you did report
10 dividends from several water companies and utility services, is
11 that the -- with respect to the stock that you were referencing
12 earlier?

13 A Yes.

14 Q Okay. And you don't have any of those anymore?

15 A I own no stock currently other than Miles B. Marshall,
16 Inc.

17 Q Do you own any type of Crypto currency?

18 A I do not.

19 Q Have you ever?

20 A I have not.

21 Q Okay. And do you own any real estate in any country,
22 other than the U.S.?

23 A No.

24 Q And have you ever?

25 A No.

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1 Q Do you have any accounts that are outside the United
2 States?

3 A I do not.

4 Q And have you ever?

5 A No.

6 Q Okay. So, when you filed different applications that were
7 heard by the Court -- well, your attorney filed them. But you
8 prepared an affidavit in support of those requests, you know,
9 and one of the -- in that affidavit, you had discussed that
10 your Chapter 11 case was precipitated largely by your recent
11 hospitalization and your loss of income as a result of that.
12 Do you remember that affidavit that I'm referring to?

13 A Yes.

14 Q Okay. So, prior to that onset of that illness and the
15 hospitalization, were you having any financial difficulty?

16 A No, it was business as usual. I always paid all my bills
17 on time for -- up until when I got sick.

18 Q So, were you able to make payments to your creditors when
19 they came due or when they asked for their money?

20 A Yes, until I got sick. Yes.

21 Q And what time frame was that, approximately, when you --

22 A 30 days.

23 Q Just 30 days ago?

24 A No.

25 Q No. I'm asking, like, when -- when did that illness

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1 hospitalization come about?

2 A December, last year, December 5th.

3 Q Okay. So prior to December, 2022, you were able to make
4 payments to creditors when they came due or when creditors
5 asked for money?

6 A Yes.

7 Q Okay.

8 A I think I made payments all the way through the first
9 illness, when I came home, through the end of January.

10 Q Okay. All right. I'm going to move to your schedules of
11 your income and in your expenses. And I might have to get some
12 clarification from your attorney, and maybe an amended schedule
13 -- I'm not sure -- because it just seemed a little bit
14 confusing to me.

15 And, specifically, when you listed your income from
16 your rental properties and from operating a business, you
17 listed \$225,807.

18 A That's a lovely income, I presume.

19 Q Right.

20 A Yes.

21 Q Is that -- was that gross or net income?

22 A Gross.

23 Q Okay.

24 A \$225,000 a month.

25 Q Okay, all right. Because on the schedule, itself, it asks

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1 for the net income, so that's actually gross is what you're
2 saying?

3 A Yes. That's either my mistake or the attorney's mistake,
4 but it's definitely gross.

5 Q Okay. So, then, on the expense side of it, then, would
6 the expenses from your rental property business, are those
7 accounted for in your list of your personal expenses?

8 A I'm not sure what you mean when you say personal expenses.

9 Q Okay. So, this is your personal bankruptcy, and in your
10 personal bankruptcy, you have to disclose the information about
11 your income, your personal income, and then, also, the expenses
12 that you have on a monthly basis. But since your individual
13 income and expenses are so closely -- so closely intertwined,
14 it's a little bit difficult to tell what exactly is going out
15 as far as expenses not related to the rental business.

16 A The expenses listed at the bottom under line 21 for the
17 different businesses definitely, yes.

18 Q Okay, all right. So, the \$225,807, the gross amount of
19 income that you just referred to in Schedule I, is that for all
20 of your businesses?

21 A Well, let me see Schedule I.

22 Q I don't think it is. I think it's just because the
23 rental income, because if you look -- that's at line eight on
24 schedule --

25 A Wages, line 8A is the gross monthly income.

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1 Q Is that just with respect to the rental properties?

2 A Yes.

3 Q Okay. And then the other income is listed below under 8H,
4 correct?

5 A 8H is the storage income.

6 Q The storage and then the different mortgages.

7 A And then the U-Haul and the M & M Press.

8 Q Okay. So, now, going back to Schedule J. Just flip your
9 page over if you're looking at Schedule I.

10 A Right.

11 Q Then, if you see under line 21 --

12 A Okay?

13 Q -- so, those are the payments that you're making -- that
14 you're making -- or, basically, the expenses of the various
15 businesses, correct?

16 A Line 21?

17 Q Yeah. So, you've got mortgages. You've got M & M Press.

18 A Mortgages. Ten or 12 properties have mortgages, and
19 that's the properties were the mortgages are on, and then the
20 rest is a monthly expense for each of those businesses, yes.

21 Q Oh, okay. All right. So, under rentals, there's \$180,000
22 of monthly expenses listed.

23 A Right.

24 Q What would that be for?

25 A Real estate taxes and insurance, maintenance, repairs.

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1 Q Okay. And then what kind of expenses do you have related
2 to the M & M Press business?

3 A Payroll, costs of good sold, electricity, heat, supplies,
4 repairs.

5 Q Okay. Okay. Okay. So you also completed another
6 statement of your income that's actually called Chapter 11
7 Statement of your Current Monthly Income, and what that is, is
8 it takes the income that you received in the last six months
9 prior to filing, and it -- it shows, you know, what your gross
10 wages were, what income from -- that you had from your rental
11 properties and what not.

12 It shows a net monthly income average, during the six
13 months prior to filing, from rental or other real property in
14 the amount of \$11,547 a month. Do you see that?

15 A No, I don't know what schedule we're looking at.

16 Q There's a separate form. It, sort of at the top, it says,
17 Official Form 122-B. It's about maybe a quarter --

18 A Yeah, 1220B, here.

19 Q Okay, great. Okay. So, go down to the bottom, where you
20 see, number six, net income from rental and other real
21 property.

22 A Right.

23 Q So, this \$225,000, that came from Schedule I that we had
24 just talked about.

25 A Right.

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1 Q And then the expenses \$214,000 that I am assuming is the
2 \$180,000 for the rental, and then the M & M Press expenses, and
3 the other things that we just went over. So, if you see, it
4 shows what the net of that is, monthly, as \$11,547. Do you see
5 that?

6 A Yes, I do.

7 Q Okay. All right. So, your net monthly income, then, now,
8 wait. Before I get to that question, then, going above that,
9 do you see net income from operating a business, profession or
10 farm?

11 A Yes.

12 Q And that's \$49,449. What -- what is that -- what is that
13 from?

14 A That is -- I assume that's the tax business of the M & M
15 Press business.

16 Q Okay, all right. So that would -- probably would add up,
17 if we went back and added all of the income from the mortgages
18 and then the M & M Press, right?

19 A Well, the mortgages are listed on line ten. I get Social
20 Security, plus those four mortgage payments, and that's listed
21 on line ten.

22 Q Okay. So, this form, basically -- let's go back to the
23 statements of the current monthly income. So it adds,
24 basically, all of the net income that you have that, you know,
25 it's kind of summarizing, if you will, the information that was

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1 in your Schedules I and J.

2 A Right.

3 Q So, at the very bottom of the next page, so, under line
4 11, it says, calculate your total monthly income. Do you see
5 that?

6 A Yes.

7 Q And it's about \$42,669 --

8 A Right.

9 Q -- would be your monthly income, is that correct?

10 A That's what it says, yes.

11 Q Okay. So, then, that's a long way around to ask you this
12 next question, how is it that you were able to afford to make
13 such large payments to your creditors in the 90 days before you
14 filed?

15 A Well, I cashed out all the stocks.

16 Q And how much did you get for that?

17 A Close to a million dollars. There was 400-and-some-
18 thousand in the brokerage account, and there was a number of
19 utility stocks, and they were between 30 and \$50,000 apiece.

20 Q Okay. So, the payments that you made, according to your
21 paperwork, the statement of financial repairs, the payments
22 that you -- the loan repayments that you made to individuals,
23 just in January, totaled over 1.2 million dollars.

24 Is that -- did you get -- well, let me ask you, where
25 did you get that money to make those payments?

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1 A Well, it came from my wages, my Social Security, the cash
2 flow, people would lend me money still in January. A lot of
3 that -- at the end of January, my bonuses came in. I think I
4 took out approximately \$120,000 in bonuses in January.

5 Q Okay. So, when you liquidated the stock, did you get a
6 check in the mail?

7 A Yes.

8 Q And then what did you do with that check?

9 A I deposited into the M. Burton Marshall checking account.

10 Q For each of those stocks that you had, is that the case?

11 A Yes.

12 Q Okay. So, in January, you paid over 1.2 million dollars.
13 In February, you paid \$50,000 to noteholders, \$50,000 to your
14 attorney and \$50,000 to Lee Woodard, who I believe is your
15 wife's attorney, is that correct?

16 A Yes.

17 Q Okay. So, you paid for her legal expenses?

18 A Well, she has no other income. Yes, I did.

19 Q Okay. So, 1.2 million in January. About 150 in February.
20 In March, you paid about \$123,000 for property taxes, but you
21 also paid over \$455,000 to various noteholders, do you remember
22 that?

23 A I know that it was done, yes.

24 Q Where did that money come from?

25 A Well, it was left over. There was a large balance in the

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1 checking account from January from cashing in the different
2 stock investments. I got my bonus, and I continue getting
3 Social Security and a paycheck all that time and profits from
4 the rentals.

5 Q So, the noteholders to whom you paid out of that \$455,000,
6 how did you decide who you were going to pay?

7 A Everyone got paid.

8 Q What do you mean?

9 A All the 900 people got paid.

10 Q They got paid what?

11 A One-half of one percent of what we calculated the balance
12 was.

13 Q And why did you decide to do that?

14 A Because that was all the money that I could afford at that
15 time.

16 Q So, you -- was it your intention, then, to try to pay
17 people before you filed your bankruptcy case?

18 A It was my intention to show good faith, and I -- that's
19 the only good faith I had at that point.

20 Q Okay. And, then, you made two additional payments to your
21 attorney in April, just shy of \$95,000. Did that money come
22 from the M. Burton Marshall account?

23 A Yes.

24 Q Okay. And where did you get the money to pay for that?

25 A Out of that checking account, the same thing.

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1 Q So, the stock sale, the money that you had from your
2 wages, bonuses, et cetera, correct?

3 A Yes.

4 Q Okay.

5 A And profits from the rentals.

6 Q Okay. I probably have more questions, but I'm just going
7 to go back through my notes, at this point, and while I do
8 that, I'm going to actually turn it over for questions, first,
9 by Committee counsel.

10 A Let me go pee, first, okay?

11 Q Oh, okay, sure. Sure. We can take a quick, you know, a
12 few minute break. Not a problem.

13 (Off the record)

14 (On the record)

15 MS. CHAMPION: Okay, great. We are back on the
16 record, and as I was saying, I probably have a couple of more
17 questions, but at this point, we will go ahead and turn it over
18 to the Committee. But before we do that, I just want to -- the
19 individuals that had emailed me that wish to ask questions, if
20 you haven't already, and I'm just trying to figure out the best
21 way to do this -- I think probably you should do the star-zero
22 to connect with the operator, so then you will be unmuted at
23 the time when we are ready to call on you for questions.

24 So, we'll just do the best we can with that process,
25 but I'd just ask everybody be patient. Okay, at this time, I'm

Marshall - Temes

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1 going to go ahead and turn it over to Committee counsel.

2 MS. TEMES: Thank you. This is Sara Temes.

3 EXAMINATION

4 BY MS. TEMES:

5 Q Mr. Marshall, thank you for taking our questions. Many of
6 our questions have already been asked by the U.S. Trustee, but
7 we also have just a few related to, starting with the area Ms.
8 Champion was just referring to, the payments within 90 days of
9 the bankruptcy filing. Were these payments mostly interest?
10 The payments that are not the half-of-one-percent payment, the
11 other payments listed, were they mostly interest payments to
12 noteholders?

13 A Can you rephrase that question? I'm not quite sure I
14 understand.

15 Q Yes. So, those listed payments that were made within 90
16 days, and some of them are listed as loan repayments, and
17 they're payments that were made throughout the 90 days prior to
18 the filing of the petition. There is one payment listed,
19 obviously, for the noteholder payments, half of one percent
20 that was in the amount of, I think, \$455,000. There are many
21 other payments that are listed, also, as loan repayments. For
22 example, and I would say that these are the first few that are
23 listed there on page -- of part 3 of the statement of financial
24 affairs, there are payment to, maybe, Jimmy Fisher (phonetic)
25 for \$10,000 on January 21st.

Marshall - Temes

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1 A Well, we're still doing the normal course of business so
2 he apparently called for the \$10,000 to be repaid, and we paid
3 him.

4 Q Okay. So, when did you cease making those regular
5 payments to noteholders?

6 A Sometime when I was in the hospital, and there was -- I
7 think it was the first week in February or something like that.

8 Q Okay. Okay. And then the -- turning, then, a little bit
9 farther on to part four of the statement of financial affairs,
10 where there's a list of pending lawsuits, were any of these --
11 there's not really a date on these, but they do mostly relate
12 to 2023, as far as I can tell.

13 A All of the lawsuits against me are related to noteholders.

14 Q Okay. And none of them are commenced before January,
15 2023?

16 A Correct.

17 Q Okay. I have just one other related to the schedules of
18 assets and liabilities. There were -- Ms. Champion asked a
19 question earlier related to one of the most recent mortgages,
20 and I think that -- that was --

21 A Yes?

22 Q -- the George Bullock was from January -- January 24th,
23 2023, but it was related to a transaction earlier that didn't
24 close until later. The -- going to the list of real property
25 owned, were any -- was any real property purchased after that

Marshall - Champion

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1 property that was purchased --

2 A No, that was the last property I purchased.

3 Q Okay. All right. That makes sense. And, then, I guess,
4 just one last thing. The security deposits that are held in
5 separate accounts for tenants, were there -- are there escrow
6 accounts that have not been set up yet or even just, as your
7 general practice in the past, before you do set up a new escrow
8 account, are those monies in the general Burton Marshall bank
9 account?

10 A Well, if someone gives us cash, then, yes, we'll write a
11 Burton Marshall check to open it, but most people, we get them
12 to write their own check directly to Berkshire Bank.

13 Q Okay. Okay.

14 MS. TEMES: That's all I have for now, Ms. Champion.

15 MS. CHAMPION: Thank you.

16 EXAMINATION

17 BY MS. CHAMPION:

18 Q Mr. Marshall, I just want to clarify your testimony to
19 make sure I have this and it's accurate, did you or did you not
20 ever approach any one of your creditors to invest in an eight
21 percent fund?

22 A I wouldn't use the word invest, no. I didn't use the word
23 fund, no, but I approached some people, not many, some people,
24 and asked if they would loan me, yes.

25 Q But you did not approach them about an investment

Marshall - Wayland-Smith

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1 opportunity, correct?

2 A No, I did not.

3 Q Okay. Okay.

4 A They lent me money, and they received eight percent
5 interest.

6 Q Okay. All right.

7 MS. CHAMPION: We are going to try to do this.

8 Hopefully, this works. I do have a couple of people already on
9 the line that are unmuted, but are -- the operator is having
10 trouble with some of the individuals' phone numbers that have
11 already contacted me. So, I think if you still want to ask Mr.
12 Marshall questions, please dial star-zero and speak with the
13 operator.

14 But, first, we do have Tina Wayland-Smith on the line
15 and ready to go if the operator wants to unmute her line. Ms.
16 Wayland-Smith, you can go ahead and ask your questions.

17 MS. WAYLAND-SMITH: Thank you, Ms. Champion.

18 EXAMINATION

19 BY MS. WAYLAND-SMITH:

20 Q Mr. Marshall, I represent a lot of people, and I'm getting
21 asked a lot of the same questions by them, and I'm going to
22 start off with, how is it that you thought you were going to be
23 able to provide all these creditors with eight percent interest
24 on the money they gave you?

25 A I thought that the real estate would appreciate more than

Marshall - Wayland-Smith

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1 the eight percent interest that I was paying.

2 Q And how was that going to happen in your mind?

3 A Well, it was being improved continually, and the
4 appreciation of real estate, particularly, Hamilton real estate
5 has appreciated significantly in the last three/four years.

6 Q Many of these people, you've destroyed generational
7 wealth, and they want to know how you feel about that.

8 A I feel horrible. I'm suicidal. I'm depressed. I'm
9 getting counseling. You know, this was never intended. This
10 is not a purposeful thing.

11 Q Do you have any offshore accounts?

12 A I do not.

13 Q Okay. When was the last time you received money for a
14 promissary note?

15 A Probably in January of this year.

16 Q Okay. And did you speak with any creditors or anybody who
17 was seeking to invest with you in January?

18 A Yes.

19 Q Do you know who you spoke to?

20 A Not off the top of my head, no.

21 Q Okay. And did you tell people how things were going in
22 January?

23 A I probably said that 2022 was the best year we ever had.
24 The insurance business had the best year. The rentals had the
25 best year they ever had. M & M Press had the best year it ever

Marshall - Wayland-Smith

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1 had. Things were --

2 Q So things were going well?

3 A Except for the medical, and the second medical thing.

4 Q When was the first time you consulted with a bankruptcy
5 attorney?

6 A I was in the hospital, so it must have been February of
7 2023.

8 Q And was that Mr. Dove?

9 A Yes.

10 Q And when did you realize you were having financial
11 difficulties?

12 A When I was laying in the hospital, and my staff notified
13 me that many people were calling notes, and there wasn't going
14 to be enough money to pay people.

15 Q Okay. Talking about all of these notes that went out in
16 January, who signed those notes. I'm sorry. Let me rephrase
17 that. Who signed those checks? You sent checks out.

18 A I'm not sure if they have a stamp with my name on it or if
19 one of my employees was authorized to sign checks. I don't
20 have those checks in front of me and don't know who actually
21 signed them.

22 Q Are any of your employees authorized to sign checks on
23 your behalf?

24 A Denise could sign checks, if they have the money, and
25 there might be a couple. I'd have to look at the signature

Marshall - Wayland-Smith

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1 first to see who was authorized to sign.

2 Q Okay. Did you ever tell any of the 900 people that you
3 had enough life insurance to cover all of the debts you owed?

4 A No. I told people I had life insurance. I never
5 intimated it was enough to cover all of the debts.

6 Q You told them not to worry about it, because if you died,
7 you had enough life insurance to cover it, you never told
8 anybody that?

9 A Not to my knowledge, I did not.

10 Q Okay. And you spoke with Ms. Champion and answered a
11 question of hers, saying that you never used the eight percent
12 fund language, is that true?

13 A That's true.

14 Q Okay. And what if I told you, I had a hand-out with your
15 letterhead on it that's dated, by my client, December 3rd,
16 2010, that the title of it is the "Eight Percent Fund". It
17 does say that you would earn eight percent interest, and that
18 funds could be added to the promissory note at any time.

19 Did that come from you?

20 A It probably did. I'd say I'd forgotten that we ever had
21 such a paper.

22 Q And I have several clients, because I represent 25 or 26,
23 that have handed me these from different -- different time
24 frames when they invested with you.

25 A Well, then I thank you for making --

Marshall - Wayland-Smith

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1 Q Do you want to change your answer?

2 A Well, apparently, I did use the word, fund.

3 Q Okay. And isn't it also true that on many occasions, when
4 you would be doing somebody's tax return, you would note to
5 them how much interest income they had, and tell them that you
6 could get them more interest income?

7 A Oftentimes, when I was doing taxes, we'd discuss how much
8 interest they'd earned and how much eight percent would earn
9 them in a year or so.

10 Q Okay. So, you did have those discussions with your tax
11 clients?

12 A Occasionally, yes.

13 Q And it's probably more than occasionally, wasn't it?

14 A Well, that's not likely. I do a lot of taxes.

15 Q Well --

16 A At least 700 taxes a year.

17 Q And what do you charge for a tax return?

18 A The (indiscernible) is a hundred and --

19 Q An individual tax return, nothing fancy with it?

20 A 150-bucks to 200-bucks, depends what's involved.

21 Q Okay. I'm just looking at my notes. And you're -- you
22 made -- is it your testimony that you only took out \$100 a week
23 from all of this money that came in?

24 A For cash, I took \$100 a week.

25 Q Okay.

Marshall - Wayland-Smith

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1 A Most bills would be through the checking account, of
2 course.

3 Q Okay. So, all your personal bills were paid through M. B.
4 Marshall --

5 A Yes.

6 Q -- checking account, as well, correct?

7 A Yeah. The \$100, that was just for cash purchases, a hair
8 cut or the farmer's market or whatever.

9 Q Okay. So, if you went grocery shopping, that money came
10 out of the M. B. --

11 A Yeah, it would go onto a charge card, and at the end of
12 the month, they would pay the charge card.

13 Q Okay. So, you did all your personal business on a charge
14 card, and then that would be paid through M. B. Marshall.

15 A Most of the personal business on a charge card that was
16 paid through Burt Marshall's checking account, yes.

17 Q Okay. And did your wife also have a card to that account?

18 A Yeah, a Discover card.

19 Q Okay. Did any of your other family members have credit
20 cards that would have been paid through the M. B. Marshall bank
21 account?

22 A No.

23 Q Okay. Let me just check my notes.

24 MS. WAYLAND-SMITH: Ms. Champion, I believe those are
25 all of my questions.

Marshall - Champion

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1 MS. CHAMPION: Okay, thank you. Before we move onto
2 the next person to ask questions, I have a couple of more
3 questions for you, Mr. Marshall.

4 EXAMINATION

5 BY MS. CHAMPION:

6 Q When is the last time that you purchased real estate
7 investment property?

8 A The Bullock property which closed in January of 2023.

9 Q How many real estate investment properties do you think
10 you purchased in 2022?

11 A Zero.

12 Q What about 2021?

13 A Zero.

14 Q Okay. Pursuant --

15 A I haven't brought any properties in four or five years.

16 Q Okay, four or five years.

17 A The last year, I brought four or five in one year, and
18 then none until Bullock.

19 Q Okay. And some of the documentation that was attached to
20 several of the proof of claims, just ones that I reviewed,
21 there was a letter on your letterhead prepared by Denise
22 Schultz. Who is Denise Schultz?

23 A She's an employee of mine.

24 Q Is she still employed by you?

25 A Part-time, yes.

Marshall - Champion

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1 Q Okay. And, in the letter, she refers to the eight percent
2 promissory note fund, and then also refers -- or -- or notes
3 that the individual giving you money for that fund can make a
4 withdrawal request upon 30-days' notice. So, what were they
5 withdrawing from?

6 A They were withdrawing from their promissory note.

7 Q So, they were taking back the money that you owed -- that
8 they -- that they lent you?

9 A Yes.

10 Q But that money was coming from where, exactly?

11 A The M. Burton Marshall checking account.

12 Q Okay. So, did you ever use any other individual's money
13 that they lent you to make payments, if a creditor did want to
14 withdraw from their note or this fund?

15 A Well, I don't use the word fund, so --

16 Q Okay. Let's just say, note, because you said they can
17 withdraw from their note.

18 A The money would go into the M. Burton Marshall checking
19 account, and it was not segregated, people funding money on a
20 promissory note, so, yes, people were paid back out of what was
21 in the checking account. Whether it came from people lending
22 me money or it came from cash flow out of the different
23 businesses or my paychecks or the bonuses or the Social
24 Security, it's all in one checking account.

25 Q Did you ever have any type of difficulty making those

Marshall - Berry

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1 payments if a creditor did request a withdrawal from their
2 note?

3 A There were difficulties, sometimes, when the school taxes
4 would come due or the town taxes would come due, sometimes.
5 Not the town taxes, so much, because the bonds
6 (indiscernible), sometimes the village taxes, and those were
7 when the difficulties would occur.

8 Q So, another question, and I -- I appreciate Ms. Temes
9 asking about this, because I had this in my notes but just
10 skipped over it, but you list a number of lawsuits in your
11 statement of financial affairs. What's the basis for those
12 suits?

13 A Me not being able to pay back the people that filed the
14 suits.

15 Q Okay. So, in other words, those people made a request for
16 a withdrawal, and you couldn't pay them, is that right?

17 A Correct.

18 Q Okay. All right.

19 MS. CHAMPION: At this point, I have Martha Berry
20 unmuted, and you can go ahead and ask your questions.

21 MS. BERRY: Thank you, Ms. Champion.

22 EXAMINATION

23 BY MS. BERRY:

24 Q Mr. Marshall, I'm Martha Berry, and I represent a number
25 of noteholders, and I have a few follow-up questions. You told

Marshall - Berry

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1 Ms. Champion that you previously had a retirement account, and
2 I think you said it was about 15 years ago, but what happened
3 with that account?

4 A I cashed it out.

5 Q Why did you cash it out?

6 A I probably needed the money.

7 Q Did you need the money to pay noteholders?

8 A It was a long time ago, and I can't recall, and it was not
9 a large amount of money.

10 Q Do you know what the value of your retirement account was
11 when you cashed it out?

12 A It was around \$100,000, perhaps less. It was a long time
13 ago.

14 Q Okay, thank you. You've told people that at times you did
15 solicit monies -- I will note use the word, fund -- from
16 noteholders, and I just have a couple more specific questions
17 about that. Did you solicit monies in January of 2023?

18 A Probably, yes.

19 Q And what about in December of 2022, did you solicit
20 monies?

21 A Probably, yes. I was in the hospital for part of that
22 time, so I'm not clear about December. In January, yes.

23 Q And were the funds -- the monies that -- well, did people,
24 then, give you money in response to your requests for funds in
25 December and January?

Marshall - Berry

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1 A In January, I know of one person that lent me some money.
2 They did not give me any money. And in December, I don't know.
3 I can't recall asking but I certainly could have, but I was in
4 the hospital most of the time.

5 Q And what did you use the monies for that were loaned to
6 you in December of 2022 and January of 2023?

7 A Well, some of the money was used to make the down payment
8 on the Bullock property, regular cash flow expenses and to --
9 to debt service.

10 Q Did you use any of the monies that were given to you in
11 December of '22 and January of '23 to pay any noteholders?

12 A Partially, probably, yes.

13 Q At some point, did you or somebody from your office inform
14 noteholders that you were not making any payments on their
15 notes, if they asked to withdraw their funds?

16 A In February of 2023, yes.

17 Q Was anybody told before February of 2023 that they could
18 not withdrawal the funds from the notes that they had with you?

19 A No. No, I don't think so.

20 Q In the past, did you ever have difficulties paying a lump
21 sum withdrawal request, and did you need, instead, to make
22 payments over time?

23 A No, not to the best of my knowledge, I -- to the best of
24 my knowledge, I've always made all of the payments within the
25 30-days' notice.

Marshall - Berry

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1 Q When -- at what point did you realize you would not be
2 able to pay back the noteholders?

3 A In February of 2023.

4 Q Mr. Marshall, is it fair to say that a good portion of the
5 monies that you owe people on these notes is interest?

6 A I think we calculated the, roughly, 55 -- these are rough
7 numbers -- \$55,000 in principal and the amount over and above
8 as interest.

9 Q 55-million?

10 A Million, yes, excuse me.

11 Q Okay, all right. Thank you. Did you tell any noteholders
12 that you were not able to pay them the balance due on your
13 notes when you were -- at a time when you were also paying
14 other noteholders back on their notes?

15 A When I stopped, I stopped. The only exception to that is,
16 three or four people came, and they had extreme circumstances,
17 and need a thousand or 2,000-bucks. I talked with my attorney,
18 and he said, that's okay for small amounts. So, there were,
19 you know, four people, maybe five people that received small
20 amounts, and that's the only exceptions to that.

21 Q In January, you made a significant payment to a noteholder
22 of over \$600,000. At that time, had you told other noteholders
23 that you were not able to pay them back?

24 A No.

25 Q Where did you get the \$600,000 to pay the noteholder in

Marshall - Berry

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1 January?

2 A How do you know it was a \$600,000 payment?

3 Q I'm sorry. I didn't hear that, Mr. Marshall.

4 A (Indiscernible) making a \$600,000 payment.

5 Q On your schedule, it lists a \$660,000 payment on January
6 13 of 2023.

7 A -- is that a handwritten thing? There was a payment of
8 60-some-thousand dollars.

9 Q This is on your bankruptcy schedule, sir. This is where I
10 got the information.

11 A What --

12 Q The payments that you made -- the payments that you made
13 before you filed for bankruptcy.

14 A There is not a \$600,000 payment. I think -- when I do
15 these forms, I do them in hand, and the attorney's office does
16 it on the computer, and there was a 60-some-thousand dollar
17 payment to someone in January. I'm thinking that it was a
18 typographical error is what I think.

19 Q Okay. I think that's all the questions that I have.

20 Thank you.

21 A You're welcome.

22 MS. CHAMPION: Thank you. Okay. I think -- let's
23 see. Where are we next. Are there -- let's start with, are
24 there any other -- if there's any other attorneys that want to
25 be unmuted to ask questions? If you could --

Marshall - Levine

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1 MR. LEVINE: Yeah, me, Lou Levine.

2 MS. CHAMPION: Okay, all right. Great. Thank you,
3 Lou. Yes, if you could just note for the record, your
4 appearance, and then you can go ahead and ask your questions.
5 Thanks.

6 MR. LEVINE: Okay. Lou Levine, Melvin and Melvin. I
7 represent Carol Salati and Steven Scheinman and a few other
8 people.

9 EXAMINATION

10 BY MR. LEVINE:

11 Q Mr. Marshall, in your statement of monthly income form,
12 you said you're spending \$214,260 as operating expenses, and
13 you may have been asked this, but what were those operating
14 expenses?

15 A Operating expenses, let me see this form here. This is
16 form 122-B?

17 Q Yes.

18 A Operating expenses are real estate taxes, payroll,
19 repairs, maintenance.

20 Q Is any -- let me ask you, is any part of that \$214,000
21 interest payments to your investors?

22 A I wouldn't use the word, investors. I would use the word,
23 noteholders, and, no.

24 Q Okay. So, none of that is interest. Okay. And do you
25 know how much in interest payments you were making to your

Marshall - Levine

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1 noteholders every month?

2 A I have it on an annual basis, not a monthly basis.

3 Q What is it on an annual basis?

4 A Well, 90 times eight is -- just this last year, we've been
5 close to \$7 million.

6 Q And you paid off -- every year, you paid off \$7 million in
7 interest?

8 A Well, it's not necessarily paid out. A lot of that, is we
9 would update the notes, and that would trigger that numbers, so
10 if you had a note --

11 Q Okay. Well, I'm asking -- I'm asking about cash payments.
12 How much in cash --

13 A Oh, that I do not know.

14 Q -- and by cash, I mean, check, but --

15 A I do not know.

16 Q Okay. You think it was \$7 million a year?

17 A No, not that we sent out in checks, no.

18 Q Okay. So, do you know how much you were paying out in
19 interest in actual checks and cash?

20 A Well, no cash, all checks, and I do not know. I could --
21 someone can find that out, when the computer guy gets off
22 vacation.

23 Q Okay. I would like to know that. Of your -- how many
24 notes -- you paid off some notes in total, is that correct or
25 not?

Marshall - Levine

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1 A In what time frame? You mean just recently?

2 Q Anywhere in the last ten years.

3 A Oh, yeah, many notes were paid in full.

4 Q Okay. And who has the records of that?

5 A They're in this office.

6 Q Okay. Is there any person except you who has those
7 records?

8 A Denise Schultz would be able to pull them up.

9 Q Okay. Well, what I meant, you, I meant you or your
10 employees.

11 A No, no one else.

12 Q Did you ever use an independent accountant?

13 A No.

14 UNIDENTIFIED SPEAKER: Where did the money go in '21
15 and '22 if you didn't buy properties?

16 MR. LEVINE: I'm sorry, Mr. Marshall, I didn't hear
17 you.

18 MR. MARSHALL: I didn't say anything.

19 MR. LEVINE: Well, I hear somebody saying something.

20 Okay.

21 MS. CHAMPION: Yes, there is somebody speaking, and
22 I'm sure you're in the conference room unmuted, because you're
23 going to ask questions, but if you could just, you know, hold
24 your questions or your comments until you are called upon, that
25 would be helpful so Mr. Levine can finish his questioning.

Marshall - Levine

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1 Thanks.

2 MR. LEVINE: Thank you, Erin. I'm just looking at my
3 notes right now.

4 BY MR. LEVINE:

5 Q How many -- in the last ten years, how many parcels of
6 your real estate did you sell?

7 A The only parcels I sold in the last ten years, I sold the
8 four that I get mortgages on, and I can't recall selling
9 anything else in the last ten years.

10 Q Okay.

11 A There was a townhouse that I owned that I sold, and that
12 was close to -- yeah, maybe 11 years ago or maybe nine years
13 ago. I don't know off the top of my head.

14 Q Okay. Okay. If I understand you, you weren't sending out
15 a check every month to all of the noteholders for interest, is
16 that correct?

17 A Correct. Some people wanted a monthly check. Some people
18 wanted it quarterly. Some people wanted it to just accumulate.
19 It was, what they wanted is what we did.

20 Q Okay. Of all of your holders, how many people got an
21 interest check at some time during the year of 2022?

22 A Well, probably three-quarters, I would guesstimate.

23 Q Okay. Do you have any ideas right now how your plan of
24 reorganization might treat these --

25 A No.

Marshall - Riggal

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1 Q -- your assets and your debts?

2 A I'm going to sign a contract with the Elgon Group, and
3 they're the money guys, so they've been in here going over the
4 books, and we've toured the properties. And they're going to
5 come up with a plan very shortly. They just came in here a
6 week ago or ten days ago. It's not too long now.

7 Q Okay. On your properties, did you -- did you pay cash for
8 all of them or do some of them have mortgages that you have to
9 pay?

10 A I think there's 12 or 14 mortgages that I pay.

11 Q Let me just look at my notes one more time. I think
12 that's all the questions I have for now. Thank you very much,
13 Mr. Marshall, and Erin.

14 MS. CHAMPION: Thank you. Thank you. Okay. We've
15 got a bunch of people in the waiting room, so I'll just go
16 ahead and call on these various creditors. Catherine Riggal,
17 do you still have questions for Mr. Marshall, and if you do,
18 you can ask those now.

19 MS. RIGGAL: Thank you, Ms. Champion.

20 EXAMINATION

21 BY MS. RIGGAL:

22 Q Mr. Marshall, you're contending that these are just
23 personal loans?

24 A Yes.

25 Q Why does my letter say from M. Burton Marshall for

Marshall - Parish

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1 investment in the eight percent fund?

2 A Well, they were personal loans. There was never a fund,
3 and those were mistakes on my staff's part.

4 Q And my other question was, you said you had 12 to 13
5 mortgages that you pay?

6 A Yes.

7 Q When were these mortgages taken out?

8 A Oh, a variety of times. Some are close to fruition, and
9 some are -- nothing in the last two or three years, except
10 Bullock -- Bullock cause he's a new one -- and within the last
11 ten years.

12 Q Okay. That's all I had.

13 MS. RIGGAL: Thank you, Ms. Champion.

14 MS. CHAMPION: You're welcome. We can go to Tom
15 Parish next.

16 MR. PARISH: Hi, can you hear me?

17 MR. MARSHALL: I heard you.

18 MR. PARISH: Okay.

19 EXAMINATION

20 BY MR. PARISH:

21 Q Burt, earlier, when you were talking to Ms. Champion, it
22 was said you had a net income of about \$42,000 in your business
23 per month, is that correct?

24 A Yes.

25 Q Okay. So, if you have a net income of \$42,000, and you

Marshall - Parish

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1 have to pay \$600,000 a month in interest, please explain to me
2 how that makes sense?

3 A Because the income was done after I stopped paying the
4 noteholders, so this does not include any of that.

5 Q That's okay. What would you say it was in December or
6 October, during the best year you ever had?

7 A Well, it would be greater than \$42,000.

8 Q Obviously, but I'd like a number please.

9 A I do not have a number off the top of my head.

10 Q Okay. Is it less than \$100,000?

11 A Probably, yes.

12 Q Okay. So, you have to pay \$600,000 a month on your notes,
13 and yet, you're only making net, you say, \$100,000, what
14 happened -- where's -- how do you make up that half a million
15 dollars?

16 A Well, some of it, obviously, was borrowed money, and --

17 Q So, you got that much in a month, half a million dollars?

18 A Yes, some months. Yes.

19 Q Okay. So, you had the best year ever, and two months
20 later, you're declaring bankruptcy, so that's kind of
21 surprising. My other question is you have abused and taken
22 advantage of the trust that the Hamilton community placed in
23 you for decades. Why haven't you publically apologized to our
24 community?

25 MR. DOVE: This is Jeff Dove. I'm going to object to

Marshall - Parish

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1 this form of questioning and instruct Mr. Marshall not to
2 answer.

3 BY MR. PARISH:

4 Q Okay. So, I guess you have single-handedly ripped this
5 town apart to the point where it may take years to heal.

6 MR. DOVE: This is Jeff Dove. I'm going to object to
7 the form of the question, if there is a question and ask that
8 Mr. Parish ask about assets and liabilities and restructuring
9 proposals, as is the intention of a Section 341 Meeting.

10 MR. PARISH: Okay, okay, fair enough.

11 BY MR. PARISH:

12 Q Now, Mr. Marshall, you stated to the noteholders that you
13 were going to invest that money in Hamilton real estate. You
14 also just stated that you have brought one property for a
15 little over \$100,000 the last two years. You've also stated
16 that, I believe, you spend less than \$100,000 a month
17 maintaining these properties. So, if, as you stated, you're
18 getting up to, like, half a million dollars a month from new
19 noteholders, what did you do with all that money that came in
20 the last two years, if you had very little in your bank
21 account?

22 MR. DOVE: I'm just going to object to the form of
23 the question, but Mr. Marshall may answer, if you can.

24 MR. PARISH: Well, do you want me to rephrase it?

25 MR. MARSHALL: I'll answer your question. I don't

Marshall - Parish

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1 have a problem with it. A large part of the money goes into
2 capital improvement. We just finished a job on Manson Street
3 that cost 350 to \$400,000.

4 BY MR. PARISH:

5 Q Okay, but, so that's the income of one month. What about
6 the other 11 months?

7 A Now, that's just one project. There are ongoing projects
8 all the time.

9 Q Okay. So, this is my final question. Then I'll stop.
10 You stated earlier that you thought you had about \$55 million
11 in principal, is that correct?

12 A Yes.

13 Q Okay. Your properties are only worth \$21 million.

14 A Well, that's the assessed value. I think --

15 Q Well, tell me the real value, then.

16 A Well, I don't have the real value, but I think it's
17 significantly more than \$21 million, which is just the assessed
18 value. The assessments are way, way low. One example is of a
19 property in Earlville where the assessment is \$105,000, and the
20 annual income is \$85,000. So, how much is that property worth?
21 Hundreds of thousands of dollars more than the assessed value.

22 Q But, still, there's a -- just with the principal, not
23 including all the interest, you know, because that 55 is really
24 \$90 million, where are those tons of millions of dollars?
25 Where did they go? They weren't put in property improvement,

Marshall - Mirabella

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1 because you can't tell me that, you know, every property is
2 worth a million dollars more than --

3 A Every property is not worth a million dollars more.

4 Q You think?

5 A They are not worth a million dollars more.

6 Q Right. So where did that \$70 million go?

7 A Tom, there is no hidden money or offshore money or
8 anything. It went into my checkbook, and paid out those
9 expenses that I pay out of the checkbook.

10 Q I don't understand how it could -- well, I'm going to let
11 other people talk. Thank you for listening, and I'll get off.
12 Bye-bye.

13 MS. CHAMPION: Okay. Thank you, Mr. Parish. We can
14 have Karen Mirabella, at this time, ask your questions. And if
15 you could just try to keep to the financial affairs, assets,
16 liabilities and restructuring of the Debtor? Thanks.

17 MS. MIRABELLA: Yes. Good afternoon, Ms. Champion
18 and Mr. Marshall.

19 EXAMINATION

20 BY MS. MIRABELLA:

21 Q Now, Mr. Marshall, did you personally sign each and every
22 promissory note that you issued to the creditors? Is it your
23 signature?

24 A Yes.

25 Q Okay. How was the value of your -- well, you may have

Marshall - Mirabella

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1 answered this, but I just want to make sure I'm correct, the
2 value of your real estate parcels, that was determined by
3 assessed value only?

4 A Yes.

5 Q This part of the schedule? Okay. Okay. Who was managing
6 your business during your illness?

7 A Well, my staff took over, and different people did
8 different things, at that point. I had a very good staff, and
9 they were able to continue with the businesses, not necessarily
10 as usual, but keep up with the work flow, except for the taxes.

11 Q Okay. Could you state the names of the person or persons
12 employed by you who were aware of this eight percent situation?

13 A Denise Schultz was the person that wrote the checks, and
14 everyone in the office is aware of what's going on here, but
15 Denise is the -- you know, the check writer.

16 Q Okay. And how many people are currently employed by you,
17 as opposed to the number of people employed by you a year ago,
18 if you lost employees?

19 A Oh, I have lost employees. I lost, I think, four
20 employees.

21 Q Okay. And is Daryl Marshall employed by you?

22 A He is.

23 Q And what is his role as an employee?

24 A Files.

25 Q Files? Okay. How much revenue does your insurance

Marshall - Mirabella

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1 business -- does the insurance business produce annually?

2 A It did over a million this past year.

3 Q One million, okay. And how about the storage business?

4 A \$170,000 roughly.

5 Q 170, okay. And if you prepare taxes year round, how much
6 does your tax preparation business produce annually?

7 A Well, last year, 2022, was roughly \$650,000, but, now, you
8 know, the business is gone, if I do business next year, I have
9 no idea what it will be.

10 Q Okay. And are you entitled to an inheritance or the life
11 insurance proceeds upon someone's death, such as a spouse or a
12 parent or a sibling?

13 A Well, my mother is 97, and I don't know if I'm in her Will
14 or not. Probably, I am. And my wife has life insurance. I'm
15 probably a beneficiary on that, and that's all I'm aware of.

16 Q Okay. Do you have any idea of the value that that might
17 be?

18 A My wife's life insurance?

19 Q Yeah.

20 A Probably \$150,000, maybe 250, not more than that.

21 Q Okay. And are you the beneficiary or a trustee of a
22 Trust?

23 A No.

24 Q Okay. And are you an investor in --

25 A Nothing.

Marshall - Mirabella

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1 Q -- any -- anything in another state or in another country?

2 A No.

3 Q Okay. And going back to -- oh, what is the value of the
4 Miles B. Marshall stock? Do you know what the value of that
5 is?

6 A We're waiting for an appraisal. I always thought it was
7 \$3 million, and now, it's a lot less because I'm losing a lot
8 of business, so --

9 Q Okay.

10 A -- it's \$2 million now.

11 Q \$2 million okay. And you mentioned that you have a truck
12 that has a seasonal plow business. How much revenue does this
13 bring in?

14 A None. It's our own buildings.

15 Q Oh, okay. Okay. Now, let's see. Are you being audited
16 by the IRS?

17 A No.

18 Q No. And how about, are you being investigated by the
19 Securities and Exchange Commission?

20 A No.

21 Q No, okay. Let's see. And from January 1st, 2023 to April
22 20th, 2023, you sent checks to 32 individual creditors that
23 were not business or expense-related. The total
24 amount was \$1,170,418.85. Three of those checks were dated
25 after April 10th, which was the date you completed your

Marshall - Mirabella

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1 bankruptcy creditor counseling, so you were well aware that you
2 would be filing for Chapter 11. Please explain how you
3 selected all of these individual creditors, and why checks were
4 sent when you knew you would be filing for bankruptcy, which
5 could show favoritism on your part?

6 A I don't believe we showed any favoritism, and who were the
7 checks to?

8 Q Well, there's a list. There's a list in your schedules.
9 There's a list of the 32 individuals, as well as businesses and
10 expense-related, but there is a list of the 32 individual
11 creditors that were sent checks after January 20th -- after
12 January.

13 A What page?

14 Q Oh, I don't have it in front of me right now.

15 MS. CHAMPION: It's in the statement of financial
16 affairs. This is Erin Champion.

17 MS. MIRABELLA: Oh, thank you, Erin.

18 BY MS. MIRABELLA:

19 Q That is the same list you listed that you said was,
20 possibly, an error. Randall and Nancy Blass received on
21 January 13th, 2023, according to your schedule --

22 A That was before everything happened, they had called for
23 a note payment in January.

24 Q Yeah, that was the one that you listed \$660,000 --
25 \$660,019, leaving down a balance owed to them of \$532,000. So,

Marshall - Mirabella

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1 that's the one you said might be a typographical error?

2 A There was one to Estate of McSwain that was \$60,000 that
3 we paid in January.

4 Q Well, I can't -- and so, I'll get the list up. So, do you
5 see the list that I'm referring to?

6 A I don't see the list. I have a lot of papers here.

7 Q Yeah, take your time. It is -- it's the statement of
8 financial affairs, and it's page 14 of 17 -- page four. I'm
9 sorry. I apologize. Page four of 17.

10 (Pause)

11 MS. CHAMPION: Do you have that, Mr. Marshall?

12 MR. MARSHALL: I can't find it here. Again, there's
13 a lot of paperwork here.

14 MS. CHAMPION: At the top, there's case number, and
15 then it'll say document number four at the very top of it, and
16 it's 17 pages. And I think what she is referring to is page
17 eight of 17 under Randall and Nancy Blass.

18 MR. MARSHALL: I don't have a copy of that. Oh,
19 wait, here it is, statement of financial affairs.

20 MS. CHAMPION: Yeah.

21 MR. MARSHALL: Is that the page?

22 MS. CHAMPION: And at the top, there's page eight of
23 17.

24

25 MR. MARSHALL: Page eight. There's six. There's

Marshall - Mirabella

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1 seven. There's eight.

2 BY MS. MIRABELLA:

3 Q And it's on the third line down.

4 A Yeah. See, when I did these, I did these in pencil, and
5 sent them to the attorney to computerize, and I think that
6 should be \$60,000, not \$660,000.

7 Q Okay. Well, I just wanted to call to your attention these
8 32 individuals that were paid after January 1st and prior to
9 April 20th, just, again, asking how these people were selected,
10 when many other folks asked for payment and were not even met
11 -- their calls weren't returned. Their emails weren't
12 returned, but yet, they asked for payments, and that didn't
13 happen?

14 A Well, the bulk of those was before February 8th. Well,
15 all of these in January was before February 8th, and a lot of
16 these others were supplies and that sort of thing.

17 Q Well, I understand that, Mr. Marshall. I was just
18 referring to the 32 creditors were loan repayment is the
19 (indiscernible).

20 MS. CHAMPION: Ms. Mirabella, do you have a question
21 in that regard or --

22 MS. MIRABELLA: No. Actually, I don't. I think -- I
23 think I've finished with my questions. Thank you very much,
24 Ms. Champion and Mr. Marshall.

25 MS. CHAMPION: Okay. How about Ronald Harp, do you

Marshall - Harp

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1 have questions? And just keep in mind, too, if questions have
2 already been answered just to move the process along, so we can
3 get to everybody, I would be appreciate -- or appreciative of
4 that. So, Mr. Harp, with that, you can go ahead.

5 MS. HARP: Yes. My name is Diane Harp. Thank you,
6 Ms. Champion and Mr. Marshall.

7 EXAMINATION

8 BY MS. HARP:

9 Q I'm just calling in regards to (indiscernible) what he had
10 invested with you. You stated January, 2022 is the last time
11 you received money from any creditors, and that on January
12 24th, you purchased a home, I believe, for \$135,000, if I'm not
13 mistaken?

14 A It was in that ballpark, yes.

15 Q Okay, yeah. No, that's fine. My mother-in-law had
16 requested, a formal written requested her money on December
17 12th. We had sent that to you, and I was just wondering why
18 she never received payment?

19 A She called me after the fact. I talked with Rhonda, who
20 is your sister, I believe?

21 Q Yes.

22 A Her daughter. And Ronnie (indiscernible), and then she
23 said, don't pay her, and then, later on, your Mom sent the
24 second request saying, oh, now, I really do want the money.
25 That's how that happened.

Marshall - Harp

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1 Q Yeah. No, I know, but we all made that one request, and
2 that was January 12th.

3 A Well, I think there's two, but I can certainly check my
4 offices. We would have copies of them.

5 Q I'm sorry?

6 A There were two, and the first one was made by Rhonda, and
7 then, there was a second one sent, and, again, I have copies of
8 those in the file somewhere.

9 Q All right. I guess that is my only question. Thank you
10 for your time.

11 MS. HARP: And thank you, Ms. Champion.

12 MS. CHAMPION: Okay. Thank you. Can we go with
13 Brian Empie, at this point.

14 MR. EMPIE: No, basically, what I've already heard,
15 this question that I had in mind was asked, so --

16 MS. CHAMPION: Okay, thank you.

17 MR. EMPIE: -- it has been answered, so thank you.

18 MS. CHAMPION: Okay. And then, how about Scott
19 Devereaux? Mr . Devereaux?

20 MR. DEVEREAUX: Yes, hi, I'm here.

21 MS. CHAMPION: Okay, great. If you have questions,
22 you can go ahead and ask now.

23 MR. DEVEREAUX: Oh, yes.

24 EXAMINATION

25 BY MR. DEVEREAUX:

Marshall - Devereaux

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1 Q So, Burt, I guess one of my questions would be, how do you
2 -- how do you regularly monitor or assess the amount of what
3 you owe to creditors versus what your investments are currently
4 worth and how much income they're producing in order to
5 basically stay out of the red? Do you have monthly actuarials
6 or a yearly actuarial that you look at?

7 A I do not.

8 Q Spreadsheets or anything like that that kind of let you
9 know that this is -- this is basically where we're at as far as
10 what everything is worth and versus what I owe creditors?

11 A No, I do not have any such statements like that.

12 Q Okay. I -- I have another question. So, I had spoke to
13 you on the phone right after you had filed for bankruptcy, and
14 you apologized to me for this mess, and you stated you took
15 full responsibility for it. What, specifically, were you
16 apologizing for, and what was the mess you had created that is
17 leaving your creditors with basically -- well, according to the
18 media outlets at 20 cents on the dollar of their -- of their --
19 the money that they have loaned you?

20 A I apologize for money that I am now not able to pay back.

21 Q Okay. Anything more specific on how that works?

22 A On how me being sorry works?

23 Q Well, I guess, specifically, I guess, what exactly
24 happened? What caused the -- the failure of the ability to pay
25 off your creditors?

Marshall - Devereaux

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1 A The initial cause is myself being in the hospital for six
2 weeks, not getting cash flow.

3 Q Okay. The last question is, normally each year we get --
4 during tax season, we get a form showing the interest income
5 that we're required to pay taxes on. What would we expect to
6 get this year?

7 A I'm not sure if interest will be paid, you know, up until
8 now or up until some future date. If we do accrue some
9 interest or pay some interest, you'll get a 1099, but I would
10 also not do your taxes, but I would assume that you will be
11 able to take a -- they'll deduct something on the claim that
12 you file, and that as money comes back, you'll have income.

13 Q Okay.

14 A You know, it's capital gain income, at that point, but
15 you'll have -- but you'll have a loss initially, but, yeah, I'm
16 not doing your taxes, so I don't think that specifically, but
17 probably, that's what it'll be.

18 Q Okay. And then my last question is, I understand that the
19 -- that the assessments of all of your properties may be a low
20 ballpark figure of what they're worth, do you, I guess, in your
21 head or your mind, do you think that the properties are worth
22 enough to pay back your creditors at least their principal?

23 A That, I don't know. It depends on how the creditors
24 community feels about the restructuring. In other words, if
25 they force us to sell all the property at once, we'll get a low

Marshall - Donaldson

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1 number. And if some people are willing to take payments over,
2 as an example, five years, then, you know, we could get more
3 over a longer period of time. It depends. If Koby comes in
4 and buys something or if it all goes to non-Koby. I just --
5 there's too many variables for to speculate at this point.

6 Q Okay. I'm sorry. I'm just looking at the list of
7 questions I had to see if they've already been answered.

8 MS. CHAMPION: Okay, thank you. We can take
9 questions from Troy Taylor next.

10 MR. DOVE: This is Jeff Dove. Troy is the financial
11 advisor. I'm not sure if he actually has questions.

12 MS. CHAMPION: Oh, that's right.

13 MR. TAYLOR: I don't have any questions. I'm just
14 here, basically, listening, and also to the extent, Jeff,
15 there's a question that I can answer, I'm happy to, so --

16 MS. CHAMPION: That's fine. Yeah, we just got a list
17 of people that are on unmute. I'm just making sure that none
18 of them have any questions. How about Debbie Donaldson?

19 MS. DONALDSON: Yes, hi. Thank you, Ms. Champion.

20 EXAMINATION

21 BY MS. DONALDSON:

22 Q Mr. Marshall, first of all, I was glad to know that you
23 were able to be released from the hospital and were on the
24 mend. I was very glad to hear it for you.

25 A Thank you.

Marshall - Donaldson

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1 Q You're welcome. Well, my aunt and uncle did business with
2 you. My mother and father did business with you. When my
3 parents passed, I had the account rolled over to me as the only
4 surviving heir, and that was in March of 2019. My only
5 question, I think, is you said that you, you know, started the
6 bankruptcy proceedings and weren't able to make payment because
7 of a loss of income. And I'm interested to know, did all of
8 your tenants stop paying rent, your rentals, and your --

9 A The tenants are paying rent, but the calls to repay the
10 loans exceeded the cash flow.

11 Q I see, okay, so you still had income coming in; it just
12 wasn't enough to cover everything?

13 A Yes, exactly.

14 Q I see.

15 MS. DONALDSON: And, Ms. Champion, one question for
16 you, please? I am my own person. I am not represented by an
17 attorney, at this point, but are we, as individuals, allowed
18 copies of all of these schedules that are being referenced?

19 MS. CHAMPION: You would have -- you are entitled to
20 them, yes, but you can request a copy through the Bankruptcy
21 Court Clerk's Office.

22 MS. DONALDSON: Okay.

23 MS. CHAMPION: I think there's probably copying
24 charges, but you'll have to call them and ask the Clerk's
25 Office. That information can be found on line. I just don't

Marshall - Cook

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1 have their number handy at the moment.

2 MS. DONALDSON: No worries. Thank you so much.

3 Thank you, Mr. Marshall.

4 MS. CHAMPION: Okay. We can go with James Cook next?

5 MR. COOK: Thank you. Can you hear me?

6 MS. CHAMPION: Yes.

7 MR. MARSHALL: Yes.

8 MR. COOK: Okay.

9 EXAMINATION

10 BY MR. COOK:

11 Q Let's go back to 2022. Do you believe that in 2022, that
12 the value of your properties, which is what we all assumed you
13 were doing with our money was investing it in properties, which
14 should have -- I mean, the property that you first bought years
15 and years ago should be worth much more than what you paid for
16 them. Do you believe that the best value, at that time, in
17 2022, was enough to repay everybody?

18 A No, it was not.

19 Q Okay. Well, obviously, even though your mother is in her
20 nineties, you're not going to live forever. What was the plan
21 when you were going to retire to pay everybody back the money
22 that you borrowed?

23 A Again, I thought that the real estate would appreciate
24 more than the interest, but I also didn't -- didn't realize how
25 much the COVID raising the cost of materials had affected the

Marshall - Cook

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1 renovation projects, too, and that -- that was also a factor.

2 Q Well, the renovation projects would have been for new
3 properties. You could have stopped buying new properties or
4 stopped taking money.

5 A Renovations are on, not necessarily new properties. It
6 was -- a lot of it's on old properties and their time to come
7 up to renovate. But, again, in my mind, the properties would
8 appreciate more than the interest cost.

9 Q Well, I would be very surprised if they didn't considering
10 the current state of real estate. And this whole this was
11 precipitated by your inability to do tax returns, which begs
12 the question, why did you need money from your interest tax
13 returns to pay money invested in your real estate properties?

14 A The tax preparation business created cash flow, which went
15 into that checkbook and paid people back.

16 Q So you were -- yeah, but that's not what we invested in.
17 We didn't invest in or have any -- many of us didn't even know
18 you did taxes. There should have been enough money generated
19 from the rental income to meet ongoing expenses, and if -- if
20 you had -- and if you did have that much income coming in, none
21 of this would have happened, but you, somehow or the other,
22 you're not getting enough income from your properties, so
23 you're relying on other sources of income, which had nothing to
24 do with our loans.

25 MS. CHAMPION: Mr. Cook, do you have a question for

Marshall - Cook

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1 Mr. Marshall.

2 BY MR. COOK:

3 Q Yeah. What -- what was -- okay. What is your estimation
4 of what percentage we're going to get?

5 A Well, it's too early to tell that. It depends on what the
6 real estate sells for, and I don't have a clue. I suspect
7 it's going to be significantly more than the number that the
8 newspapers were parrotting about.

9 Q Well, you've been in this business an awful long time, and
10 you know your properties, and the real estate is on the high
11 end right now, so I'm just curious why you think that you're
12 not going to get enough to give us at least a significant
13 amount of what you owe us?

14 A Well, it depends on how you define significant, and, again
15 it depends on how the properties sell. If somebody comes in
16 and buys 50 properties all at once, it will be a different
17 price than if they have to be sold one at a time and involve
18 real estate brokers. There's many variables. I would be
19 remiss to give a number now.

20 Q All right. Thanks. I'm done.

21 MS. CHAMPION: Okay, thank you. I have, next, Alex
22 Raketa.

23 MR. REGINA: Yes, Alex Raketa.

24 MS. CHAMPION: Regina, sorry. Go ahead.

25 EXAMINATION

Marshall - Raketa

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1 BY MR. RAKETA:

2 Q Mr. Marshall, Alex Raketa. I'm with Hinman, Howard and
3 Kattell. I apologize if you answered this. You were about to
4 talk about something tangentially related to this when the
5 operator jumped on with me, but the value of the real estate
6 that you reported on your schedule, did you say that those are
7 the assessed values of those properties?

8 A Yes.

9 Q Are you familiar with the fractional assessment of real
10 estate in New York?

11 A No.

12 Q Have you ever heard of an equalization rate?

13 A I've heard of that, yes.

14 Q So in some municipalities, the assessed value of the
15 property could be 80 percent of the full value of the property
16 or six percent of the full value of the property or in some
17 places, it's 100 percent, but usually, on the tax form, there
18 is reported somewhere on the tax roll, here is the full value
19 of the property. Do you know if you used the full value of the
20 property or --

21 A No, I used the assessment.

22 Q I'm sorry, say that again?

23 A The assessed value was used.

24 Q Okay.

25 MR. TAYLOR: This is Troy Taylor from the Elgon

Marshall - Raketa

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1 Group, the financial advisor. I just want to reinforce
2 something that Mr. Marshall said a few times. How
3 strategically these properties are monetized are going to drive
4 a tremendous amount of the value -- the determination of the
5 value, from a timing standpoint, if their sold in bulk, and to
6 some -- to some extent, for anyone on this call to ask Mr.
7 Marshall or ourselves to try to put on a value, we need to let
8 the marketplace determine the value. But strategically, how
9 these things are done is going to be the single most important
10 thing that is going to determine the amount of recovery for all
11 the noteholders. It's very early on right now. We're getting
12 our arms around things. But the strategic part of how these
13 things are sold will be, probably, the single most important
14 day of the case.

15 MR. RAKETA: Thank you for your commentary.

16 BY MR. RAKETA:

17 Q Mr. Marshall, you've been very careful, now, not to use
18 the word investor or the word fund. Has somebody instructed
19 you not to use those words?

20 A No, I have not been using those words myself for a long
21 time.

22 Q Other than in the various correspondence that people have
23 brought to your attention?

24 A Yeah, right, which was an error in office procedure.

25 Q But nobody has said to you, please don't use the word

Marshall - Broomfield

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1 investment with regard to these accounts or these promissory
2 notes or please don't call it a fund? Nobody has said that to
3 you recently?

4 A Not to the best of my knowledge, no.

5 Q Okay. I have no further questions. Thank you.

6 MS. CHAMPION: Thank you. And then the last
7 individual I have on line waiting with the operator is
8 Stephanie Broomfield, so if there are other creditors that
9 believe their question hasn't been asked yet, if you want to
10 just hit star-zero to connect with the operator and we'll make
11 sure that you can ask it, but I believe that we only have one
12 more individual, and that is Ms. Broomfield, you can go ahead.

13 MS. BROOMFIELD: Thank you. Good afternoon,
14 everybody.

15 EXAMINATION

16 BY MS. BROOMFIELD:

17 Q My question is -- I have a few questions. Burt, did you
18 feel, given that you have financial background, do you feel
19 that keeping all the accounting, all the deposits and
20 withdrawals in one account was good -- acceptable business
21 practice?

22 A It was acceptable to us, but I don't know what you mean by
23 acceptable business practice.

24 Q It seems to me it's probably more difficult to trace the
25 deposits and withdrawals and interest payments for all of the

Marshall - Broomfield

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1 parties, the promissory noteholders, when it's bundled with
2 several different businesses, M & M Press, the moving, et
3 cetera, so that those that were -- believe in you, you were not
4 protecting. I do not believe that was the best way to be able
5 to report on those funds.

6 Do you? Did you ever think about separating the
7 accounting, so that your different businesses would be mutually
8 reportable?

9 A I did not think about that, no.

10 Q I didn't think you had, but just wondering. It is very
11 clear, after you filed Chapter 11, it's a ten minute's math
12 exercise that the interest that -- that these interest
13 payments, just the interest payments far exceeded the amount of
14 the business profit in addition of these legal liabilities far
15 outweighed your assets, and I did calculate that the principal
16 amount is probably in a \$50 million range, which you confirmed
17 at slightly higher than that.

18 And my question is, why didn't you understand that
19 you would not be able to honor neither the interest nor the
20 principal note (indiscernible)?

21 A I assumed that the real estate would appreciate more than
22 the interest cost.

23 Q It seems like a gross overestimation from my perspective.
24 At any point, did you ever consider capping the funds and not
25 accepting new funds, say, in 2010, when you probably were under

Marshall - Broomfield

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1 water?

2 A I don't recall thinking that in 2010, no.

3 Q Well, is there any way for you, at any given time, given
4 how quickly you did file Chapter 11, that you knew what the
5 principal amounts were, and could you access that information
6 quickly?

7 A I never made my people run a total of the notes until
8 after we filed the bankruptcy.

9 Q Do you know approximately when you hit about \$20 million
10 in principal amount?

11 A No, I don't know.

12 Q You said earlier that Denise Schultz was aware of and can
13 access some of this information, and you did mention another
14 person that did develop a proprietary program so that you could
15 get out of the paper world on these promissary notes, which is,
16 again, rather surprising, but didn't he know -- wasn't he able
17 to put it together and test the numbers and run scenarios where
18 you could determine at any given point what's the principal and
19 what the interest due was for any particular noteholder or as a
20 group?

21 A Well, any particular noteholder, it was easily accessible
22 how much their principal and interest was, yes, and we could
23 have added all of the noteholders together to get those
24 numbers.

25 Q And you weren't interested to do so?

Marshall - Broomfield

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1 A Well, I did the interest once a year when I did the taxes.

2 Q Oh, speaking of that, of course, since all of us have been
3 paying taxes on the interest -- I was going to add an
4 adjective, but I'll leave that to your imagination -- so, we
5 have been paying taxes on a well -- that's my final statement.

6 MS. CHAMPION: Okay. We do have a few more people to
7 ask questions who have just joined, but I do have to take a
8 quick bathroom break, so we'll just take a quick break and then
9 get back on. Thank you.

10 (Off the record)

11 (On the record)

12 MS. CHAMPION: Okay. This is Erin Champion. We can
13 go back on the record.

14 MR. MARSHALL: Erin, can I clarify one thing?

15 MS. CHAMPION: Absolutely.

16 MR. MARSHALL: Someone asked me the question if
17 anyone instructed me not to use the word fund or investments,
18 and I -- my attorney had reiterated not to use those words. I
19 was aware of that and was not using them before, but he did
20 reemphasize to me that, so I just wanted to clear that up.

21 MS. CHAMPION: Okay. Thank you. Okay. We have
22 another attorney on the line, so I'm going to take her next.
23 Kristin Tiffany, if you want to ask your questions, you can do
24 that now, and if you would just note your appearance, first.

25 EXAMINATION

Marshall - Tiffany

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1 BY MS. TIFFANY:

2 Q Someone previously mentioned Gerald Marshall was an
3 employee of yours. Are they related to you?

4 A Daryl -- Daryl Marshall.

5 Q Daryl?

6 A D-A-R-Y-L. Daryl is my brother.

7 Q And they're in charge of files?

8 A Well, he's not in charge of anything. He files.

9 Q Oh, he files? He's files away documents?

10 A Right.

11 Q And does that include the notes?

12 A No. He has nothing to do with the notes. Daryl is sort
13 of quasi-special needs. He had spinal meningitis when he was
14 young, and he's as deaf as can be, and he just files. That's
15 all Daryl does.

16 Q Okay. And is it your position that -- I believe today
17 I've heard that the Miles B. Marshall, Inc., may be valued at
18 \$3 million, but I think I've heard \$2 million, as well.

19 A Prior to this bankruptcy stuff, it was worth about \$3
20 million, and since we've filed bankruptcy, I've lost a lot of
21 business, and I think now, I'd be lucky to get \$2 million. I'm
22 waiting for the appraisal. We're getting it appraised. It's
23 been taking six weeks. It should come in this week, but that
24 was pre-bankruptcy, and I think that number will come in close
25 to three, but I think now business is fleeing, so I think it's

Marshall - Tiffany

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1 down around two.

2 Q And what program was it that you used to keep the ledger
3 on each note?

4 A We have a program we devised ourselves. It's not a
5 commercial program.

6 Q And is this program through Microsoft Excel or is it
7 coordinated with QuickBooks or affiliated with --

8 A It has nothing to do with QuickBooks, and I don't know --
9 it's a program using File Maker as a base.

10 Q And is there a person in your office, in particular, who
11 maintains this program?

12 A David Will.

13 Q Wells?

14 A Will, W-I-L-L.

15 Q And if you hadn't purchased property in 2022 and in the
16 four years prior to that, what were you telling these creditors
17 who were lending you money? What were you telling them that
18 this money was being used for if you weren't purchasing
19 properties at that time?

20 A That it was being used for capital improvements to
21 priority owned properties.

22 Q And that's what you were telling them?

23 A Yeah. I told them it was used for business, cash flow, to
24 pay bills and for capital improvements. That's where --
25 improvements were expensive.

Marshall - Tiffany

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1 Q And did all the noteholders receive the same guidance to,
2 you know, contact you and give you 30 days, and they could have
3 their note repaid?

4 A Yes.

5 Q And why did you need 30 days?

6 A Because, oftentimes, if somebody requested money the day
7 that school taxes or town taxes or something like that, there's
8 not enough money, but 30 days is a reasonable amount of time.

9 Q And so, what did you need to do during those 30 days to
10 get, say, additional money?

11 A Well, sometimes I didn't need to do anything. Sometimes,
12 we paid them that moment, and sometimes, we waited until the
13 rents came in or cash flow or grabbed someone else that owed me
14 money or whatever until the checkbook got up to the amount.

15 Q And if I wanted a list of the names, addresses and phone
16 numbers of your employees who worked for you in the last three
17 years, how would I go about obtaining this?

18 A Talk to my attorney.

19 Q Is there something on file in your office? Is it a record
20 with your payroll company?

21 A We do our own payroll, and I know my people's names and
22 addresses and phone numbers.

23 Q And you said you do your own payroll?

24 A In the house, yes.

25 Q And those funds come from the M. Burton Marshall account?

Marshall - Wickwire

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1 A Yes.

2 Q I have no further questions. Thank you.

3 MS. CHAMPION: Kristin, if you could just put your
4 appearance on again, because there was a little bit of a delay,
5 so I didn't get your appearance and who you were appearing on
6 behalf of.

7 MS. TIFFANY: Absolutely. Kristin Tiffany, attorney
8 from the Crossmore Law Office on behalf of Youth Policy
9 Institution and Martin Murray.

10 MS. CHAMPION: Great. Thank you so much. So we do
11 have some additional folks that are waiting to ask questions.
12 Again, I'd just remind people, if you can avoid, you know,
13 repeating some of the same questions that were already asked,
14 we can probably get this done -- this portion of the meeting,
15 anyway, done fairly soon. Okay. So we've got -- next up is
16 Stephen Wickwire. You can go ahead and ask your questions now.

17 MR. WICKWIRE: Can you hear me?

18 MS. CHAMPION: We can hear you, yes.

19 MR. WICKWIRE: Okay.

20 EXAMINATION

21 BY MR. WICKWIRE:

22 Q Burt, Steve Wickwire with a question. You have, over the
23 years, told me repeatedly that you had a \$100 million policy in
24 case something happened.

25 A I never said that, Stephen. I have \$18 million in life

Marshall - Sole

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1 insurance.

2 Q I repeatedly heard you say that. You've told me that.

3 You told my wife that that you had a \$100 million policy.

4 A I disagree 100 percent. I have never told anyone that I
5 have \$100 million life insurance policy because I don't.

6 Q That's fine. I feel very deceived. I always thought the
7 world of you, but that's all I have to say.

8 MS. CHAMPION: Okay, thank you. Can we move next to
9 Ian Sole?

10 MR. SOLE: Yes, this is Ian Sole. Can you hear me?
11 You can hear me okay?

12 MS. CHAMPION: Yes, we were just getting a little bit
13 of background noise maybe from another caller, but we can hear
14 you.

15 MR. SOLE: Okay.

16 EXAMINATION

17 BY MR. SOLE:

18 Q I basically have two questions. As a preamble to that,
19 Burt, you have been doing business for, I believe, many, many
20 years, if not decades, in Madison County.

21 A Yes.

22 Q And, obviously, you didn't get to having what I believe
23 from the filings is about \$90 million in promissory notes,
24 outstanding overnight. That happened over a long period of
25 time.

Marshall - Sole

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1 A Yes.

2 Q And over a number of years. Would it be a fair question
3 to ask that, at some point, along the curve between your
4 ongoing business, which generates X-amount of monthly income
5 and the liability that you were getting in order to service the
6 debt from the promissory loans led you to realize that you
7 needed new loans in order to cover the debt serving costs of
8 existing loans, and if so, when did you realize that that was
9 the case?

10 A I always thought that the real estate would appreciate
11 more than the interest cost.

12 Q So, recognizing, based on earlier conversations -- I don't
13 want to repeat a lot of what earlier people have said, but
14 based on approximately a \$7 million annual servicing debt and
15 three -- I think I heard you say approximately three-quarters
16 of that was being paid out in checks, that would equate to
17 approximately \$400,000 a month in check payments to service
18 these promissory notes. And I think I heard you say that, in
19 your best month, you were netting from your ongoing business,
20 approximately \$100,000 in net profit. That gap of \$300,000,
21 you were covering that with new loans?

22 A Some of it, yes.

23 Q I guess -- I guess that's a statement from me, and also my
24 question -- my first question is, it's obviously disappointing
25 -- extremely disappointing that someone involved in finance, as

Marshall - Sole

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1 far as taxation and so forth, it didn't overly concern you at a
2 much earlier time that, clearly, it was -- the numbers weren't
3 working, that you had a much higher debt servicing cost than
4 you were able to cover with the income from ongoing businesses.

5 My second question, however, is absolutely debt
6 service costs with the promissory note, would it be a fair
7 question to say that your current ongoing business, which is
8 the rental income, storage units, potentially may go back to
9 doing tax preparation. I believe, do you also have an
10 insurance business?

11 A I have an insurance agency, yes.

12 Q An insurance agency. Would it be fair to say that the
13 combined income from those businesses make it a viable, ongoing
14 business, absolutely cost of the debt servicing of the
15 promissory notes?

16 A Maybe, but I don't know how much the insurance business is
17 going to suffer from the bankruptcy, and I don't know how much
18 the taxes is going to suffer, I mean, about by a third, and th
19 taxes is probably by a half or more. I have no idea at this
20 point.

21 Q But I think it's also fair to say that a majority or a
22 large portion of the gross income, if not net income, of your
23 businesses is the rental properties of residential and
24 commercial, the 100-plus properties and the -- I'm not sure how
25 many storage units you have, but unless people just stop living

Marshall - Forth

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1 in your properties, you still have all that income, correct?

2 A Correct.

3 Q So, I'm not sure I heard a clear answer.

4 A Correct.

5 Q Thank you. Those are my questions.

6 MS. CHAMPION: Thank you. We can move to Paul Forth.

7 MR. FORTH: Good afternoon. Can you hear me?

8 MR. MARSHALL: Yes.

9 MS. CHAMPION: Yes, we can.

10 MR. FORTH: Thank you, Erin. Thank you, Burt.

11 EXAMINATION

12 BY MR. FORTH:

13 Q I didn't get notified of this meeting today. I only found
14 out by chance by one of the neighbors, somebody that is on
15 that. I'm just wondering why that didn't occur and how many
16 other people may have not known about this meeting today, so I
17 wanted to make that point. And I was curious, do we know how
18 many participants are on today for this meeting? We knew we
19 were up to 100 or so when the system crashed last time.

20 MS. CHAMPION: I don't really know the answers to
21 those questions, but do you have any questions related to Mr.
22 Marshall's assets, liabilities. You can certainly email me any
23 other administrative type questions, you can email me directly,
24 but as far as questioning Mr. Marshall, do you have anything
25 for him.

Marshall - McVaugh

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1 MR. FORTH: No, most everything I had has been
2 answered, so we thank you.

3 MS. CHAMPION: Okay. Thank you. Okay. Let's move
4 to Kirstin McVaugh. I think I'm saying that right, Kristin
5 McVaugh. Okay, maybe she dropped off. Okay, we can go --

6 MS. McVAUGH: No, I'm here, can you hear me?

7 MS. CHAMPION: Yes, we can hear you.

8 MS. McVAUGH: Okay, great. Thanks.

EXAMINATION

10 BY MS. McVAUGH:

11 Q I have two quick questions or hopefully quick. I want to
12 circle back to the term life insurance policy. I know that
13 life insurance was brought up in conversations with my husband,
14 as well, as being an important factor in terms of repayment, if
15 anything was to happen to Burt, so I am curious, what is the
16 term on those policies, and how much is being paid out per year
17 for those policies?

18 A Each of those three big policies are about 14 or \$1,500 a
19 month, and they're, each of them, 20 or 25-year terms, and I
20 think there's one year, two years and three years left on each
21 of the three different policies.

22 Q Okay. Thank you. And my second question, perhaps, is for
23 the financial advisor who is on the call. I know that Burt
24 mentioned that three-quarters of the creditors received
25 interest payments in some form throughout the year. Well,

Marshall - Sullivan

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1 about a quarter, roughly, did not, and so that means that one
2 quarter of the promissory noteholders have not received
3 interest, but will also have to pay taxes on that interest, so
4 I'm curious if all of the noteholders will be treated the same
5 in the repayment process once this is all figured out.

6 MR. TAYLOR: This is Troy Taylor. We've been
7 engaged, now, approximately a week. We're addressing issues
8 exactly like you just said. At this stage, we're trying to get
9 facts, (indiscernible) what's been done and what hasn't been
10 done. You know, a number of the things that we've talked about
11 on this call, by (indiscernible) we want to basically make sure
12 we've got our hands wrapped around the facts around these
13 things, and obviously, everything will be done according to
14 what's -- the program, the bankruptcy law and the, you know,
15 the chapter. But right now, it is a very complicated set of
16 facts, and we are about to (indiscernible) complex.

17 MS. McVAUGH: Thank you. That's all I have. Thanks.

18 MS. CHAMPION: Let's move to Dennis Sullivan.

19 MR. SULLIVAN: Hello, Dennis Sullivan.

20 EXAMINATION

21 BY MR. SULLIVAN:

22 Q Burt, with my two notes, my son's note and my mother's two
23 notes, since we had our interest set up to be automatically
24 reinvested, was the money considered a new principal deposit,
25 so in the future, through bankruptcy, would the money be paid

Marshall - Sullivan

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1 by a percentage, have the rollover interest compilated in?

2 I know some people receive monthly checks with interest, where
3 ours was reinvested, so I'd like to know how that is --

4 A That's probably a question for the attorney, but I think
5 the interest -- everyone's interest is going to be accumulated
6 up to date, as I understand it, and then everyone will get
7 their pro rata share, as I understand it.

8 Q But what -- what my question, Burt, is, that can go back
9 one month. Let's go back for the last 20 or 25 years. Every
10 time that we've given interest instead of taking that check and
11 cashing it, you automatically reinvested it --

12 A Right.

13 Q -- and paid yourself. So I want to know if -- so, right
14 now, what our balance is should be our principal. There
15 shouldn't be any -- the only interest there, it should be the
16 interest that accumulated when you stopped making payments to
17 us.

18 A Right, correct.

19 Q So, for the record, what my balance is, there's five, six
20 notes we have there, those -- all those notes that reinvested
21 in, all the other people out there that have notes that the
22 money is then reinvested with you, instead of taking the money
23 out monthly, yearly or quarterly, however they had it set up,
24 that money is now considered principal not interest?

25 A Correct.

Marshall - Sullivan

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1 MR. DOVE: This is Jeff Dove of Barclay, Damon. Mr.
2 Marshall's opinion on the topic is certainly relevant. It may
3 not be the legal answer that the Court issues, but that is an
4 open topic that will be discussed under the Chapter 11 Plan and
5 will be discussed with the Creditor's Committee.

6 MR. SULLIVAN: So, Mr. Dove, so what you are stating
7 is that when we've had money, we're going to go back, we're
8 going to say 1998, okay, and that year, the interest, we didn't
9 get a check from him, now, it's rolled-over to reinvest with
10 him, automatically, through Burt, you're saying that's not
11 considered principal, now? You're saying that's considered
12 interest only?

13 MR. DOVE: No. That's not what I said. What I said
14 was, that issue is an open issue at this point in time, and at
15 the end of the day, the Bankruptcy Court will have the ultimate
16 determination as to how to characterize the interest that was
17 reloaned to Mr. Marshall, unless there is a consensual
18 resolution of that topic.

19 MR. SULLIVAN: Okay.

20 BY MR. SULLIVAN:

21 Q Next question. Burt, recently, the Miles B. Marshall
22 recently closed and moved to the Hamilton office, which is
23 part of your business there. Was that your mom's business that
24 moved to Hamilton or was that closed or is that part of your
25 business that was in Morrisville?

Marshall - Garland

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1 A I own that business, Miles B. Marshall, Inc., Morrisville
2 and Hamilton .

3 Q Also, for the record, a friend also had no clue about
4 today's meeting and so, I mentioned it to her, and in
5 discussing things with her, where she was unable to get on the
6 phone, one of the things was the life insurance policy would
7 cover was a big topic, also, and many people, myself, I wasn't
8 told that, because I was going through my parents that were
9 invested through you, but that has been a topic I heard from
10 many, many people that the life insurance policy would cover
11 it, if there was ever any issues, so just for the record.

12 A Thank you.

13 Q All right .

14 MS. CHAMPION: Do you have any further questions?

15 MR. SULLIVAN: That's all. No further questions.

16 Thank you.

17 MS. CHAMPION: Okay. So, next, we have Richard
18 Garland?

19 MR. GARLAND: Hello?

20 MS. CHAMPION: Yeah, we can hear you, go ahead.

21 MR. GARLAND: Okay, thank you.

22 EXAMINATION

23 BY MR. GARLAND:

24 Q Yeah, my question is, in terms of the rental portfolio
25 income, what is the net profit on a monthly basis?

Marshall - Garland

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1 Hello?

2 A It looks like \$11,547.

3 Q Okay. And where is that money currently going to?

4 A Into the checkbook of Burt Marshall.

5 Q Okay. Well, I hope they're going to stop order on that,
6 and why isn't that being distributed to the creditors?

7 A That's a -- you'd have to ask the attorneys that question.
8 I don't know that.

9 MR. DOVE: This is Jeff Dove.

10 MR. GARLAND: Well, I'm asking them now.

11 MR. DOVE: This is Jeff Dove. Mr. Marshall is
12 considered a debtor-in-possession and remains in possession and
13 control of his assets during the pendency of the bankruptcy
14 case, unless and until there is an order to the contrary. It
15 is the ordinary course and business in a Chapter 11 case for
16 the Debtor to remain in possession and control of the income of
17 his business, and so that's exactly what is going on at the
18 moment.

19 BY MR. GARLAND:

20 Q Okay. And can you, please, tell us if that money is
21 staying in that account or is it being used to pay any kind of
22 salary?

23 A Peoples' salaries are being paid per usual. I'm paying a
24 shitload of attorney's fees and will have some financial
25 expenses here from the Elgon Group shortly, so that's what the

Marshall - Garland

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1 money is going for currently.

2 Q I see. Okay. And, you know, just one comment I wanted to
3 make, because, you know, I happen to be a real estate
4 professional, and I was born in Hamilton, upstate New York, and
5 the property value has not gone up much, you know, like that --
6 I brought this house over a decade ago, sold it for, maybe, a
7 \$20,000 profit, and that was the market late at the time. That
8 was before COVID. So I'm just curious, you know, how you kind
9 of get into this all confused lie that the interest that you
10 were promising people would be able to, you know, well, the
11 real estate investment would be able to catch up with that?

12 A I don't know how to answer that question. I always
13 thought the real estate would appreciate more than the interest
14 would cost, and --

15 Q But, Mr. Marshall, the interest never even came close to
16 catching up. You were in water practically from, you know, the
17 '90s. If you do the math, you're losing around, you know, \$2
18 million a year in principal that you owe people, not to mention
19 the interest that you're promising them. The deficit is so
20 large --

21 MR. DOVE: This is Jeff Dove, I'm going to interrupt.
22 Is there a question here or is this commentary?

23 BY MR. GARLAND:

24 Q No. The question is, how did he feed into this argument
25 that he's making that the interest would be able to catch up

Marshall - Garland

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1 with the real estate investment, because it clearly has never
2 done. If you look at the data, if you look at the Market over
3 the last 30 years of Hamilton real estate or Morrisville or
4 Upstate New York, Utica, it's barely gone up in value.

5 MR. DOVE: I think that Mr. Marshall has been asked
6 and answered that question several times. He may not like the
7 answer, but he has given an answer.

8 MR. GARLAND: But based on pure facts, right --

9 MR. DOVE: I'm not going to argue with you, sir, I'm
10 simply stating that he has been asked the question; he has
11 answered the question.

12 MR. GARLAND: I'll rephrase the question.

13 MR. DOVE: So, whether it's this year, last year,
14 five years ago, ten years ago, 20 years ago, the Hamilton real
15 estate has barely gone up in value, correct, so --

16 MR. DOVE: I don't know if that is an accurate
17 statement.

18 MR. GARLAND: I mean, compared to other urban
19 markets, it is.

20 MR. DOVE: Okay, if that's your position, that's your
21 -- that's not a fact, so that's fine.

22 BY MR. GARLAND:

23 Q So, what is Mr. Marshall's assessment on how much his real
24 estate portfolio has gone up in value over the last 30 years?

25 A I have no assessment to compare it to. I could look at

Marshall - Crosby

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1 some values from 30 years ago and see what they are today.
2 Real estate is not (indiscernible) particularly in Hamilton.
3 There's a house across the street from us that just sold for
4 700-and-some thousand dollars that just three years ago sold
5 for 50 or \$60,000. I mean, real estate has gone up.

6 Q Okay. All right. That's my only question. Thank you.

7 MS. CHAMPION: I see we have Peter Crosby. Do you
8 have questions for Mr. Marshall? Mr. Crosby?

9 MR. CROSBY: Yes, I'm sorry. I was having
10 difficulty.

11 MS. CHAMPION: Yes, that's okay. Do you have
12 questions? You can go ahead.

13 EXAMINATION

14 BY MR. CROSBY:

15 Q I have two questions. One is that I assume from the
16 description you gave of the businesses and the Hamilton funds
17 that a single, as it were, consolidated tax return is filed for
18 the commercial activities, am I correct, there?

19 A Miles B. Marshall, Inc. is a separate entity and files a
20 commercial tax return for that, and everything else is part of
21 my own individual tax return, so there's a number of Schedule
22 Cs and a hundred different schedules for each different rental.

23 Q Second question would be whether or not the
24 (indiscernible) is done on an accrual or a cash basis?

25 A Cash.

Marshall - Bierworth

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1 Q Okay. Thank you.

2 A You're welcome.

3 MS. CHAMPION: Next we can move to John Bierworth.

4 MR. BIERWORTH: Yes, thanks, Erin, this is John
5 Bierworth.

6 EXAMINATION

7 BY MR. BIERWORTH:

8 Q My father has a fund unfortunately, and he has for 30
9 years, and he took ill. And so, it brings me to the question
10 about beneficiaries. How were those treated?

11 A If the note was written on a joint account with right of
12 survivorship, it would automatically go to the survivor, and if
13 not, it would become of your dad's estate.

14 Q Okay. Well, we called. There's five of us grown kids,
15 and my dad is currently in the hospital, and, you know, I
16 thought this was, like, everybody is saying the same thing, not
17 sustainable. But, anyway, my question is, we did add
18 ourselves. We called your office. You passed me along to,
19 probably, Denise, and we added the children as beneficiaries.
20 But, at this point, that's good, but my question is, if there
21 wasn't any next of kin, how would you legally handle if you
22 couldn't locate anybody, did you ever keep the funds or is
23 there some --

24 A I don't think that's ever happened. It's always been, if
25 someone passed away, and there wasn't a beneficiary, it would

Marshall - Donaldson

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1 go to the estate.

2 Q Okay. All right. That's my question. Thank you.

3 MS. CHAMPION: So, I have a couple of more people
4 that want to ask questions that have already asked questions,
5 so I can go ahead and do that, but I would just remind you to
6 keep in mind, the questions that have already been asked of Mr.
7 Marshall, if we can avoid that, and if they are truly questions
8 versus statements, that is also helpful to the process, so,
9 just, if you could keep that in mind, and we will go back, now,
10 to Debbie Donaldson.

11 MS. DONALDSON: Thank you, Ms. Champion.

12 EXAMINATION

13 BY MS. DONALDSON:

14 Q Mr. Marshall, you have consistently given the prior answer
15 that you thought real estate faster than interest would cull,
16 yet you have also told us that you only sold four properties in
17 the last, I want to say it was, in the last ten years, you'd
18 only sold four properties. So, given that you were banking --
19 counting on the fact that the real estate would appreciate, why
20 did you only sell four. Was your plan to sell more as the need
21 increased or what was the plan for the property to pay off?

22 A Well, there was no formal, written plan, and as the cash
23 flow dictated what I did, and the longer I held the properties,
24 my belief was they would appreciate more and more, so the
25 longer I held them, the better off it would be from my

Marshall - Donaldson

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1 perspective back then.

2 Q I can understand that. That's all I have.

3 MS. CHAMPION: Thank you. We can now go back to
4 Karen Mirabella.

5 MS. MIRABELLA: Thank you.

6 EXAMINATION

7 BY MS. MIRABELLA:

8 Q Mr. Marshall, when you became ill and started to realize
9 that your cash flow had decreased because you were no longer
10 doing tax preparation, did you have enough funds to stay
11 afloat, like most individuals or families have a two to six
12 month buffer that you can stay afloat if something happens.
13 Did you not think that you would just, you know, become well or
14 when you became well, just resume your tax business and just
15 continue the process? Like, what made you say, I need to file
16 for bankruptcy at this point?

17 A Many people filed judgments against me. In order to
18 preserve what assets I have, and in fairness to the people that
19 didn't file the judgments, which is a bulk of people, I had to
20 file reorganization bankruptcy, because, otherwise, the people
21 that filed the judgments would just seize money out before
22 anybody else is my understanding.

23 Q Okay. And based on your knowledge of the definition of
24 Ponzi scheme, do you consider this a Ponzi scheme, do you
25 consider this a Ponzi scheme?

1 A I do not.

2 Q Okay. No further questions. Thank you.

3 MS. CHAMPION: Okay. This is Erin Champion again. I
4 just have a couple of housekeeping items, and one question for
5 you, Mr. Marshall. Since you filed the bankruptcy case on
6 April 20th, have you been able to keep up with those post-
7 petition obligations or bills that are coming due?

8 MR. MARSHALL: Yes.

9 MS. CHAMPION: So you haven't fallen behind on
10 anything?

11 MR. MARSHALL: No.

12 MS. CHAMPION: That's fine, okay. And you understand
13 that you have a requirement to file monthly operating reports
14 that would include bank statements on all of the information
15 about the income that you took in and the disbursements that
16 you made each month, correct?

17 MR. MARSHALL: Yes, we filed the one that was -- that
18 ended April 30th. We filed it by May 21st, I think it was the
19 date. And I'm not sure if I'm doing it or if the financial
20 guys are doing the next one, but we'll have that filed on time
21 by June 21st.

22 MS. CHAMPION: Okay, great. Okay, so I just want to
23 thank everybody for participating today. It's been a long
24 meeting, but I appreciate everybody who has joined the call,
25 participating, asking very important, valuable questions.

1 Thank you to you, Mr. Marshall and Counsel, for appearing and
2 asking our questions. I think, at this point, we have gotten
3 through what we needed to today. I am going to keep the
4 meeting open and adjourn it, at this point, for control
5 purposes to June 26th at 10:00 a.m. It would be the same
6 conference line, if the meeting does go forward. You know, any
7 individual concerned that they won't get notice, just you can
8 email me, which -- okay -- so, also, if you are interested in
9 getting a recorded copy of the 341 meeting, you can email me
10 that request, as well. So, I'll give you my email address now
11 and my telephone number, so if you can, you know, write it
12 down, you have it in front of you, you can make that request.

13 So, you can contact me at my email address, which is
14 Erin.Champion@USDOJ.Gov, and that's E-R-I-N, dot, Champion,
15 C-H-A-M-P-I-O-N, at U-S-D-O-J, dot, Gov. Feel free to also
16 call my direct line in my office. That number is (315) 793-
17 8127. We will get back to you as soon as we can. We get a lot
18 of calls, as you can imagine, but we will get back to you about
19 any information that you want, as far as administrative
20 procedures or with respect to the 341 meeting.

21 So, again, this is the only official recorded
22 meeting, so if you want a copy, email me. I gave you the email
23 address, but just to be sure, I'll give it to you one more
24 time. It's Erin.Champion@USDOJ.Gov. I will probably have some
25 document requests of my own, Mr. Marshall, for your attorney,

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1 and I will reach out separately to him. And then I will also
2 be in touch whether we need to have a continued 341 on the
3 26th, but, at this point, I am going to just adjourn it to that
4 date and time for control purposes.

5 So, with that, again, everybody, thank you, and you
6 have my information. If you need any additional information,
7 you can give me a call or email me. So, we can conclude
8 today's portion of the meeting.

9 Thank you.

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1 **C E R T I F I C A T I O N**

2 I, JACQUELINE MULLICA, court approved transcriber,
3 certify that the foregoing is a correct transcript from the
4 official electronic sound recording of the proceedings in the
5 above-entitled matter, and to the best of my ability.

6

7 /s/ Jacqueline Mullica

8 JACQUELINE MULLICA

9 J&J COURT TRANSCRIBERS, INC. DATE: June 12, 2023

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